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ACTS

OF THE

GENERAL ASSEMBLY

OF THE

Commonwealth of Kentucky,

PASSED AT THE

REGULAR SESSION OF THE GENERAL ASSEMBLY WHICH WAS BEGUN AND HELD IN THE CITY OF FRANKFORT ON TUESDAY, THE FIFTH DAY OF JANUARY, ONE THOUSAND NINE HUNDRED AND FOUR.

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1904

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LAWS

OF THE

STATE OF KENTUCKY,

PASSED AT A REGULAR SESSION OF THE GENERAL ASSEMBLY WHICH WAS BEGUN AND HELD IN THE CITY OF FRANKFORT ON TUESDAY THE FIFTH DAY OF JANUARY, NINETEEN HUNDRED AND FOUR.

CHAPTER 1.

AN ACT to provide for the collection and exhibition of the resources of the Commonwealth of Kentucky at the Louisiana Purchase Exposition, at St. Louis, Missouri, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Commission.

§ 1. That the Governor of the Commonwealth of Kentucky be, and he is hereby authorized and directed, by and with the consent of the Senate, and within twenty days of the passage of this act, to appoint a commission to be known as the Kentucky Louisiana Purchase Exhibition Commission. Such commission shall consist of fifteen members, all of whom shall be residents of Kentucky.

Powers.

§ 2. Such commission shall have full power to devise and execute plans for the erection of a suitable

building to represent Kentucky at said Exposition, and for furnishing and maintaining same, and for making an exhibit of the natural resources, commercial advantages, mechanical appliances, educational and artistic progress, agricultural, mineral and forestry interests, and all other interests and industries of the Commonwealth of Kentucky, and to take charge of the same, and disburse the appropriations hereinafter made. It may appoint as officers and employes, such persons as in its judgment are absolutely necessary for the carrying out of the purposes of this act, including the right to delegate to an executive committee of its own number, consisting of not more than five persons, the duty and power to execute any and all plans that may be devised or ordered by such commission. Such commission shall meet at such time and place as the Governor may appoint, and organize by the election of a president, vice-president, and secretary. A majority of such commission shall constitute a quorum for the transaction of business. Said commission shall have power to make rules and regulations for its own government, not in conflict with the laws of this Commonwealth, or the laws and rules governing said Exposition. Any vacancy occurring in said commission shall be filled by the Governor, in conformity with the provisions hereof. The members of the commission herein created shall receive no compensation for their services, but they shall be paid out of the money herein appropriated, all their actual and necessary expenses while away from their homes engaged in the work of the commission. Provided, no one member of the commission shall draw a sum total exceeding two hundred and fifty dollars ($250) as expenses, while acting as commissioner.

Duties.

§ 3. Said commission shall have charge of the interests of this Commonwealth and its citizens in the

collection and exhibition at said Exposition of the manufactures, arts and natural and industrial progress of this Commonwealth, and exhibits of any kind illustrating its history, progress, moral and material welfare, growth, enterprise and development, and all other matters tending to advance the interests, representation, and prosperity of this Commonwealth at said Exposition. It shall collect and disseminate throughout the State, all necessary information regarding said Exposition, and in general have and exercise full authority in relation to the representation of the Commonwealth of Kentucky, and its citizens in the Louisiana Purchase Exposition.

§ 4. The sum of Seventy-Five Thousand Dollars, or so much thereof as may be necessary for carrying out the purpose expressed herein, be, and the same is hereby appropriated out of any money in the treasury not otherwise appropriated. Provided, The Kentucky Exhibit Association shall first convey to the commissioners established by this act, all rights, franchises, concessions, records, funds, and property that now, or may come in its possession, and provided, further, that this commission shall assume all debts, liabilities, contracts, and obligations, now in force by the Kentucky Exhibit Association. $75,000 appropriated.

§ 5. Each member of said commission shall, before he enters upon the discharge of his duties herein named, execute to the Commonwealth of Kentucky a bond, to be approved by the Governor, to faithfully discharge the duties required of him by this act, and upon failure to comply with any of the provisions of this act, he shall be held responsible on his official bond to the Commonwealth, and for all unnecessary and exorbitant fees, wages and salaries paid to officers, agents and employes, appointed by this commission or by their agent, or Bond.

agents, said commission shall be held jointly and severally liable on their official bonds to the Commonwealth; suit to be brought in the Franklin Circuit Court.

Manner of disbursement.

§ 6. The expenditures herein authorized shall be paid by the State Treasurer upon the warrants of the auditor, who shall draw his warrants on the order of the president of said commission, and the approval of the Governor. The auditor shall prepare proper vouchers to show the claims of the members for their actual expenses. The affidavit of the claimant and the approval of the president shall be deemed sufficient evidence of the claims, and in no event shall the Commonwealth of Kentucky be liable for any sum in excess of the appropriation hereby made, by any act of the officers, agents, employes, body or board created by this act, or authorized by its provisions. Any excess of said appropriation and the proceeds of the sale of such buildings, or building materials, or any other property belonging to the Commonwealth of Kentucky, that it may be proper to sell, shall be paid into the treasury and held as a part of the general fund of this Commonwealth.

Vouchers.

§ 7. All payments must be made upon authorized vouchers, approved by the president and secretary, and no claim against the Commonwealth shall be paid except such as shall have been duly presented to the commission, audited and allowed.

Report.

§ 8. At the close of their service, or at any time required by the Governor, a statement shall be made of all exhibits of the Commonwealth, or the citizens thereof, or the awards made on such exhibits and such matters as the said commission may deem valuable to the people of the Commonwealth of Kentucky, together with a list of all receipts and disbursements, with proper vouchers therefor. All reports required to be made by said commission shall be verified.

§ 9. When the Louisiana Purchase Exposition shall have been closed, said commission is hereby authorized to sell and dispose of the buildings and other property in the Exposition at St. Louis belonging to the Commonwealth of Kentucky; and with the approval of the Governor, the exhibits and other movables, which may be of sufficient interest to justify same, may, with the approval of the Governor, be returned to the Commonwealth of Kentucky and placed on permanent exhibition, as may, in the estimate of this commission, best subserve the Commonwealth and its citizens. The accounts of said commission shall be fully settled and its final report to the Governor made, within six months after the close of said exposition.

§ 10. Said commission shall report to the Governor from time to time as may be required, giving a detailed statement of expenditures and liabilities; and at the close of said exposition shall make a complete and final report of its acts and doings. Said report shall be sworn to by the president and secretary of said commission; and said final report shall, by the Governor, be submitted to the General Assembly. The commission shall keep a record of the by-laws, orders and proceedings, which record shall at all times be open for inspection by the Governor, or any person detailed by him to examine the same, or any citizen of the State of Kentucky.

§ 11. This act shall take effect from and after its passage and approval by the Governor, because the emergency requires that steps be taken immediately to complete the necessary buildings, collect the exhibits, and install them in time for the opening of said exposition.

Approved January 27, 1904.

CHAPTER 2.

AN ACT to provide for the erection and completion of the Capitol, and other necessary buildings at the seat of government.

Whereas, The public buildings of the State at the Capitol are notoriously inadequate to furnish proper halls, offices and places of business, to enable the General Assembly and the State officials to properly and efficiently discharge the duties of their offices; and records and valuable papers of the State can not therein be properly protected and cared for; and,

Whereas, The present buildings do not comport with the dignity, intelligence and wealth of the State; therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Sinking Fund Commissioners.

§ 1. That the commissioners of the sinking fund of Kentucky, by that name and style, are hereby created and authorized as a board to carry out the provisions of this act, and erect and complete the buildings herein provided for. The buildings herein provided for shall be located and built upon the grounds, or lot, now used for the State Capitol, and not elsewhere.

Powers and duties of said board.

§ 2. Said board is authorized and empowered to adopt plans and specifications for the construction and completion of the Capitol buildings at Frankfort, Kentucky, as it may deem best and most suitable for the accommodation of the General Assembly and the State officials and the departments thereof, having due regard for the safety and preservation of the State records; and may change said plans as the necessity may arise in the progress of the work. After said plans and specifications are adopted by said board, it shall advertise

for sealed proposals for bidders for said work, or any part thereof, and the said work shall be awarded to the lowest and best bidder, due regard being had to the responsibility of the bidder. Sub-contractors shall in no case be recognized by the board,—the responsibility to continue in the principals and their sureties. The contract shall in no case provide for the payment in any one year, of an amount exceeding the income of, or the amount available for, that year from the amount appropriated under the provisions of this act. And it is in no sense to be construed as creating a debt of the State, except to the extent of the annual income or sum appropriated in the State Treasury under this act. But any amount remaining on hand and unexpended in one year may be added to and expended in any subsequent year or years. Every contractor for work or material to be furnished under this act, shall execute to the board, a bond, conditioned for the faithful performance of his contract, with surety to be approved by said board.

Million dollars appropriated.

§ 3. The total expenditure for all purposes under this act shall not exceed one million dollars; and to provide means therefor there is appropriated, and shall annually for the next four years, commencing with the present fiscal year, be set apart by the Auditor of Public Accounts and the treasurer from the general revenue, the sum of two hundred and fifty thousand dollars, the same to be paid out and expended for the purpose of the construction and completion of public buildings at the seat of government, and to be paid out by the treasurer upon the order of the board, when signed by its chairman and secretary. But said board may expend more than two hundred and fifty thousand dollars per year if practicable to do so, and necessary for the due prosecution of the work, provided available

funds not otherwise appropriated, are on hand, not exceeding however, the total sum appropriated hereunder.

Record of proceedings.

§ 4. Said board shall hold its meetings at the seat of government, and a majority thereof shall constitute a quorum, but no contract shall be approved except by four-fifths of all the members of the board. The said board shall keep a record of all its proceedings and acts, and cause to be kept by the secretary, a true and complete record of all the money paid out, to whom and for what purpose, and under what order and contract. Monthly statements shall be made to the Governor by the said secretary, and a full and complete report shall be made to the General Assembly in regular or extra session.

Member of board not to be interested.

§ 5. It shall be unlawful for any of the said board, or any employe thereof (except the particular contractors) to be connected, either directly or indirectly, in any manner whatsoever, with any contract, or part thereof, for the erection of said Capitol buildings, or for any work connected therewith, or for furnishing any of the supplies or material therefor, or to receive any benefit therefrom, or the promise of any benefit therefrom either by way of commission, rebate, bonus, division of profit or otherwise, and any one of said board, or such employe who shall violate the provisions of this act, shall be guilty of a felony, and, upon conviction thereof, shall be subject to a fine not exceeding one thousand dollars, and imprisonment in the penitentiary not exceeding five years. It shall be unlawful for said board to employ any person in the supervision of the building of said Capitol, or in any way connected therewith, who may or shall become in any manner connected, directly or indirectly, with any contract for the erection of the said Capitol

buildings, or for the furnishing of any material or supplies therefor; and the said board are hereby charged with a rigid enforcement of this provision.

Secretary, Architect and Superintendent.

§ 6. Said board shall erect and complete the buildings herein provided for, and shall effectuate the purpose of this act in accordance with the provisions hereof; and may employ a secretary or clerk at a salary of not exceeding one hundred dollars per month, and a competent architect; also a superintendent of the building at a salary of not exceeding two thousand dollars per year.

Contracts.

§ 7. All original and supplemental contracts made by the board shall be in writing and signed by the party or parties, in duplicate, and one of the originals deposited in the office of the Auditor of Public Accounts, as a public record therein, and properly authenticated copies therof shall be evidence in all courts and other places. And the Franklin Circuit Court is given jurisdiction of all matters and issues which may arise under the provisions of this act.

§ 8. The said board may adopt such rules to carry out the work contemplated by this act as it may deem best for the interest of the State, and require a compliance with same.

Whereas, The necessity for the erection and completion of the Capitol buildings at the seat of government produces an emergency, this act shall take effect from and after its passage.

Approved February 6, 1904.

CHAPTER 3.

AN ACT to create a State School Book Commission and a County School Book Commission and to procure for use in the public schools of this Commonwealth a uniform series of text books, and to define the duties and powers of said commission, to fix the maximum prices of said text books, to make preparations for carrying this act into effect, and providing penalties for the violation of the same.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Commissions created.

§ 1. There is hereby created a State School Book Commission which shall consist of the Governor, the Auditor of Public Accounts, the State Treasurer, the Clerk of the Court of Appeals, and the three members of the State Board of Education. The Governor shall be chairman, and the Superintendent of Public Instruction shall be secretary, and they shall be the executive officers of said commission. The members of said School Book Commission shall serve without compensation, other than that received by them respectively, as incumbents of the State offices which they hold. Before transacting any business relating to the duties of the commission, they shall each take an oath before some one authorized by law to administer the same, to faithfully and honestly perform all the duties imposed upon them by this act, and that they have no interest, directly or indirectly, in any contract that may be made hereunder, and that they will receive no personal benefit therefrom. All meetings of said commission shall be held in the office of the Superintendent of Public Instruction, who, as secretary of said commission shall be the custodian of all papers, records and sample books which shall at all times be held subject to inspection by any member of

the State School Book Commission, and said Superintendent of Public Instruction shall conduct for said Commission and under its orders all correspondence relating to the business of the same.

Books, price and time.

§ 2. The State School Book Commission shall meet within thirty days after this act shall take effect, at a time which the Governor shall designate in writing to the several members of said commission, and shall advertise in such manner and form as they may deem best, that at a time to be fixed by said commission stated in said advertisement not later than August 1, 1904, said commission will receive at the office of the Superintendent of Public Instruction in the city of Frankfort, sealed bids or proposals from the publishers of school books for furnishing text books on the branches required to be taught in the common schools of the Commonwealth, namely: Spelling, Reading, Writing, Arithmetic, English Grammar, including Language Lessons, English Composition, Geography, Physiology and Hygiene, Civil Government, United States History, and the History of Kentucky. Said bids or proposals shall be for furnishing such books or any of them for a period of five years and no longer; shall state specifically and clearly and in contract prices at which such book or books will be furnished to the Commonwealth of Kentucky, or to any board of education, city or county, or to their lawful agents, and said contract price shall be as low as any contract price at which said book or books are sold by said publisher under contract to any State, county, city or school district anywhere in the United States; Provided, That no bid or proposal shall be considered by said State School Book Commission or contract made for the aforesaid books to be sold at retail at a price greater than the following: For Spelling Book, twelve cents; for Primer, ten cents; for First

Reader, twelve cents; for Second Reader, twenty cents; for Third Reader, twenty cents; for Fourth Reader, thirty-five cents; for Fifth Reader, forty-five cents; for Primary Arithmetic, twenty cents; for Mental Arithmetic, twenty-five cents; for Intermediate Arithmetic, twenty-five cents; for Practical Arithmetic, forty cents; for Elementary Geography, forty cents; for Complete Geography, eighty cents; for Elementary English Grammar, twenty-five cents; for Complete English Grammar, forty cents; for Physiology and Hygiene, Complete, sixty cents; for Physiology and Hygiene, Intermediate, thirty cents; for Primary History of the United States, forty cents, Complete History of the United States, seventy cents; for History of Kentucky, sixty-five cents; for English Composition, Complete sixty-five cents; for English Composition, Elementary or Language Lessons, Part III, twenty-five cents; Language Lessons, Part II, seventeen cents; Language Lessons, Part I, twelve cents; for Civil Government, forty-five cents; for Writing Books, five cents each. Said bids or proposals shall further set out clearly and specifically an exchange price at which said book or books shall be furnished to pupils and patrons who may have old books in actual use in school of like subject and same grade, and exchange for said new book or books, and said exchange price shall not, in any event to be more than fifty per centum of the retail price of said new book or books fixed as herein provided. Provided, That after each and every adoption under this act the exchange price as herein provided for shall apply. Each bid or proposal shall be accompanied by a sufficient number of specimen copies of all books offered for adoption to supply the State School Book Commission and each County School Book Commission with copies of each

book, and a copy of each of said sample or specimen books shall be transmitted to each County Superintendent of Public Instruction by the State Superintendent of Public Instruction at the same time he transmits the lists of prices, blanks, etc., hereinafter set out. When said bids or sample copies shall have been received by said commission they shall require each bidder to deposit with the State Treasurer such sum of money which said commission may designate in writing to each bidder separately; such deposit to be not less than five hundred dollars, nor more than twenty-five hundred dollars according to the number of books each bidder may propose to supply. Such deposit of any bidder shall be forfeited absolutely to the School Fund of the State if said bidder shall fail or refuse to make and execute such contract or bond as is hereinafter required in case of the acceptance of such bid on any or all the books so offered. The deposits herein required shall be made by said bidders within ten days after receipt of said notice from the commission, and the State Treasurer shall upon receipt of such deposit report the same to the secretary of said commission. Provided, That no bid or bids from any individual, corporation, partnership, association, or joint stock company, the members of which reside in another State shall be received or considered by said commission, unless accompanied by a statement naming an agent or agents residing in this State upon whom process may be served in any action upon said bond, and they shall in case of a change of such agent or agents, file at once in the office of the Secretary of State, a statement showing name and residence of the new agent or agents; a failure to file such statements shall be a breach of said bond.

County commission.

§ 3. A County School Book Commission is hereby created to consist of the County Superintendent of Pub-

lic Instruction, the County Judge and the County Attorney of each county respectively, of which the County Superintendent shall be Chairman.

Duties of State and county commission.

§ 4. The State School Book Commission shall open and examine said bids and ascertain whether the net contract prices offered therein are in accordance with the provisions of this act, and within thirty days after date provided for the submission of sealed bids as provided in section two of this act shall transmit to the several County Superintendents of Public Instruction a complete list of such books so offered by the various bidders and shall notify said County Superintendents of Public Instruction to convene the County School Book Commissions of their respective counties on the day to be designated in such notice for the purpose of examining and selecting books from said list for a uniform and exclusive use of the common schools of this Commonwealth. *Provided,* That all books so furnished to County School Book Commissions for this purpose, excepting the samples of the books selected and adopted, shall be returned to their respective bidders when the selection of books as herein required shall have been completed. The State School Book Commission shall send to the County Superintendents of Public Instruction, in addition to the lists of books and the prices thereof from which they may make their selection, a copy of this act, such blanks as are required for making said selection of books and such instructions relative to their duties hereunder as may be deemed necessary: *Provided,* That the blank on which the County School Book Commission shall report the list of books selected by them shall contain in proper form an oath to which each shall subscribe, that he has faithfully, and to the best of his ability, performed the duties required thereunder, and that he is not in any way, directly or indi-

rectly, interested in any valuable consideration that may arise from said selection of books. The County Superintendent shall convene the County School Book Commission, on the date designed by said State School Book Commission, and said County Commission shall at such meeting or at a subsequent adjourned meeting within thirty days select from said lists such books on the various branches required to be taught in the common schools as in their judgment will be best adapted to the educational requirements of the pupils and most desirable in every way, considering the subject matter, binding and mechanical excellency; and when said list of books is complete, two copies of same shall be made on blank forms to be furnished by the State School Book Commission and subscribed and sworn to by the Board of said County School Book Commission or by a majority thereof, said oath to be administered by some official authorized to administer the same. One of these notices shall be forwarded at once to the Secretary of the State School Book Commission at Frankfort by registered mail, the contents plainly marked on the outside of cover and the other copy shall be filed in the office of the County Superintendent of Public Instruction and spread in full upon the official record book of the County Superintendent: *Provided,* That all books so selected shall be selected from the lists furnished by said State Book Commission as aforesaid and none shall be partisan, sectional, sectarian or immoral in character. The Secretary of the State School Book Commission shall preserve the report so rendered by the various County School Book Commissions until all the counties in the State shall have so reported or until thirty days shall have elapsed from the time said County Commissioners were directed to first meet to select books. Within ten days after all counties shall have reported or said thirty

days shall have elapsed the said State School Book Commission shall meet on call of the Secretary, canvass said reports and tabulate the results of selections of books so made and reported by the various County School Book Commissions as hereinbefore provided, and shall record for each book so voted for by said County Boards the names of the counties favoring such book or books. Provided that said State School Book Commission shall not contract for any book or books unless said book or books be adopted by a majority of the County School Book Commissions in this State. In case any of the books do not receive a majority of all the County School Book Commissions, then said State School Book Commission shall, within ten days resubmit to the County School Book Commissions the names of all books unselected, together with a list of said books having received the three highest number of votes from said County School Book Commissions, and from this list the unselected books shall be chosen; then if any of the unselected books do not receive a majority of all the County School Commissions, the State School Book Commission shall, within ten days, again submit to the County School Book Commissions the names of all books yet unselected, together with a list of said books having received the two highest number of votes from said County School Book Commission, from which the remaining books shall be selected.

The book or books on each subject required to be taught in the common schools found to be the choice of the greatest number of County Commissions shall be declared by the State School Book Commission to be the duly adopted book or books, and the complete list thus selected covering the common school branches shall constitute the books to be used uniformly and exclusive-

ly in all the common schools of this Commonwealth for the period of five years from and after the date fixed by the Governor in his proclamation as hereinafter provided. Nothing in this act shall prevent the use of supplementary books in any school, in which the series provided for in this act is continuously and in good faith used. If the State School Book Commission shall find that two or more books on any subject have received the votes of the same number of County Commissions and no other book on such subject be the choice of a larger number of County Commissions, then the State School Book Commission shall determine which of such books shall be adopted. And if any bidder shall fail or refuse to enter into any contract and bond as herein required, or if any contract made hereunder shall afterwards be null for good and sufficient cause, then the State School Book Commission shall select from the publications of other bidders suitable books to substitute for them, and shall contract accordingly as is directed for other books. Within five days after the letting of any contract for book or books hereunder by the State School Book Commission, the said Commission shall cause to be published in three daily newspapers published in this State, one of which shall be published at the seat of government, and one in the city of Louisville, a tabulated statement of the result of the selection of such book or books by the various County School Book Commissions as hereinbefore provided. Such tabulated statement shall show accurately which County School Book Commissions selected or voted for the book or books contracted for, and shall also show which County School Book Commissions selected or voted for any other book or books.

§ 5. When such adoption shall have been determined and made, the State School Book Commission

Contracts to be in duplicate

shall, by registered letter, notify the publishers to whom contracts have been awarded, and it shall be the duty of the Attorney General to prepare such contract or contracts in accordance with the terms and provisions of this act, and the said contract or contracts shall be executed and signed by the Governor and attested by the Secretary of State with the seal of the State attached upon the part of the Commonwealth, and signed by the publisher or publishers in his or their proper capacities or on the part of the contractor or contractors. Each contract shall be for a term of five years from date and shall be executed in duplicate, one copy to be kept by the contractor and one copy by the State School Book Commission, and spread in full upon the minute book of said Commission. Said contract shall specifically provide that any book or books included therein shall be equal in all respects during the period of said contract to the specimen copies furnished with the bid, and it shall be the duty of the Secretary of said State School Book Commission to preserve in his office under seal as the standard of quality and excellence to be maintained in such books, the specimen copies of all books which have been the basis of any contract together with the original bid or proposal. The County School Book Commission, shall, in making their adoption, take into consideration the subject matter, quality, material, binding, size, mechanical execution, general appearance, price and fitness of each text book so submitted to them, and shall accept the best bid, and shall in no case permit the general standard of text books now existing in this State to be lowered. It shall be required of all contractors to print plainly on the back of each book the retail price and exchange price at which said book is to be furnished as provided herein And it shall be stipulated in each contract that the

contractor is not now furnishing such book or books at a lower price to any State, county, school district or city where like conditions prevail as those provided in this act, and that in case said contractor shall hereafter during the time of said contract furnish to any State, county, school district, or city such book or books at a lower price than the retail price named in the contract with this Commonwealth, such lower price shall become the price such book or books under the contract entered into with the said State School Book Commission, and the said State School Book Commission is hereby authorized and directed at any time they may find that any book or books are being sold at a lower price elsewhere than in this State, to sue upon the bond of said contractor and recover the difference between the net contract price and the said lower price at which they find that said book or books are being sold as hereinafter provided. It shall be a part of the terms and conditions of any contract made in pursuance of this act that the Commonwealth of Kentucky shall not be liable to any contractor in any manner for any sum whatever. But all said contractors shall receive their pay or consideration in compensation solely and exclusively derived from the proceeds from the sale of books as provided for in this act. Said contract shall also provide that the exchange price of each and every book so contracted for shall extend for one entire school year after the expiration of any school book contracts if any now existing in any county in this State, such county school book contract to remain in full force and effect until the expiration of the time for which they were made, but immediately thereafter during the ensuing school year the State uniform series of books shall be substituted for those previously in use in such counties and exchanges made as herein provided. The

said contractor shall also be required to take from pupils all old books in use by them at the time this contract shall go into effect in any such county, allowing therefor such value in exchange for new book as is provided in the contract with said contractor and as provided for herein. And said contractor shall pay all transportation charges on old books so exchanged and on the new books exchanged for them, and shall allow to the dealer who makes such exchanges ten per centum of the cash profits of said exchange.

Bond of contractor.

§ 6. At the time of the execution of the contract aforesaid the contractor shall enter into a bond in the sum of not less than five thousand dollars nor more than fifty thousand dollars payable to the Commonwealth of Kentucky the amount of said bonds within said limit to be fixed by the State School Book Commission, and conditioned upon the faithful, honest and exact performance of said contract, and shall further provide for a reasonable attorney's fee in case of recovery in any suit upon same with three or more good and solvent sureties, actual citizens and residents of Kentucky, or any guaranty company authorized to do business in this State. It shall be the duty of the Attorney General to prepare and approve said bonds and provide that said bonds shall not be executed in a single recovery, but may be sued upon from time to time until the full amount thereof shall be recovered; and the said State School Book Commission may at any time, by giving thirty days' notice, require additional surety or additional bond within the limits herein prescribed. When any person, firm or corporation shall have been awarded a contract and entered into the same, and submitted therewith the bond as hereunder required the said School Book Commission, through its secretary, shall so inform the Treasurer of the State, and it then shall

be the duty of said Treasurer to return to such contractor the cash deposit made by him; and the said State School Book Commission, through its secretary, shall also inform the Treasurer of the State of the names of the unsuccessful bidders, and the Treasurer shall, upon receipt of such notice, return to such unsuccessful bidders the amounts deposited by them respectively at the time of the submission of their bids. Should any person or persons, firm or corporation, fail or refuse to execute the contract submitted therewith, the bond as required by this act within thirty days after awarding the contract to him and of the mailing of the registered letter containing notice of such award, the said deposit shall be forfeited to the Commonwealth of Kentucky, and it shall be the duty of the Treasurer when the same is forfeited to place such cash deposit in the Treasury of the State to the credit of the school fund; and said State School Book Commission shall select and contract for other books to take the place of those whose publishers so failed to contract to furnish; and provided, further, that any recovery had of any bond given by any contractor shall enure to the benefit of the school fund of the State, and when collected shall be placed in the treasury to the credit of the School fund to be prorated among the several counties.

Uniform price.

§ 7. It shall be the duty of the contractors under the provisions of this act if required by the State School Book Commission to establish and maintain in some city in this State a depository where a stock of their books sufficient to supply all demands shall be kept. It shall be the duty of the County School Book Commission in each county to select two or more agents or dealers in such county to supply the patrons and pupils the books herein provided for. The County Superintendent of Public Instruction shall see that such agents or

dealers shall comply with the terms and provisions of this act, shall report to the State School Book Commission any violations or inefficiencies of said agents or dealers, and shall under the orders of said Commission, select other or additional agents or dealers for the distribution of books to said patrons or pupils; but the contractor shall also be permitted to make arrangements with merchants or others in the handling and distribution of their books. Any patron or pupil may order any book or books desired of the contractor who publishes them and said contractor shall on receipt of the retail price thereof send by mail or express prepaid the book or books so ordered; all the books shall be sold to the consumer at the retail price printed on the back of said book or books, and any local agent or dealer, clerk or other person handling or selling the books adopted under this act who shall ask or receive for any book of the State series herein provided for more than the said retail price shall be guilty of misdemeanor, and upon conviction for each offense be punished by fine of not less than fifty dollars nor more than one hundred dollars. Contractors supplying books under contract as herein provided shall have plainly printed on the back of each book in connection with the retail and exchange prices hereinbefore provided, the following notice: "To the Public: The prices printed herein are fixed by State contract, and any higher prices are unlawful; any deviation therefrom should be reported to your County Superintendent or to the State School Book Commission at Frankfort."

Contracts made before the passage of this act.

§ 8. As soon as the State School Book Commission shall have entered into contract or contracts for all books required under this act, it shall be the duty of the Superintendent of Public Instruction of this Commonwealth to issue a circular containing all necessary in-

formation relative to the introduction, exchange and use of text books as provided in this act, and shall direct the County Superintendents from time to time relative to the operations and applications of the same in their respective counties. The Governor shall issue his proclamation upon the completion of the contracts and acceptance of the bonds as hereinbefore provided, announcing the facts to the people of this Commonwealth, and shall in said proclamation name a date on which all common schools in this Commonwealth not under existing contract as hereinbefore provided, shall conform to the course of text books provided by the terms of this Act and the contracts herein mentioned, provided that said date shall be within six months after the signing of said contract for said books as herein provided, and shall apply to counties having existing school book contract immediately after expiration of such county school book contract.

Commissioners subject to indictment for any violation.

§ 9. Each member composing the State School Book Commission shall be subject to indictment in any circuit court having jurisdiction in this Commonwealth for any violation of any of the provisions as set out in this act, and upon conviction be fined in any sum not less than five hundred dollars nor more than one thousand dollars, and imprisoned not less than thirty days nor more than ninety days and forfeit his office.

County commissioners, neglect of duty.

§ 10. Any member of the County School Book Commission who shall fail or refuse to enforce the provisions of this act shall be guilty of a misdemeanor, and on conviction shall be fined not less than one hundred dollars nor more than five hundred dollars. Any teacher in the common schools who permits the use of any other books than such as allowed by the provisions of this act shall not receive any salary so long as such violation of this act continues. Once every five years

after the first selection of school text books as herein provided the State and County School Book Commissions shall proceed as herein directed to select books for the purposes and in the manner hereby provided. Provided that the State adoption made five years after the time when this act becomes a law shall apply to every county in the State.

$1,000 appropriated.

§ 11. The sum of one thousand dollars or so much thereof as may be necessary is hereby appropriated for the purpose of defraying the costs of advertising as herein provided and such other legitimate expenses as the School Book Commission may incur in carrying this act into effect. And the bills for such expenses shall be approved by the said State Book Commission and presented in the usual way for payment out of the treasury.

§ 12. All laws or parts of laws in conflict with the provisions of this act are hereby repealed.

Contractor prohibited from subscribing to any campaign fund.

§ 13. Any corporation, firm, partnership or individual under contract with the State to furnish school books under the provisions of this act shall not, directly or indirectly, contribute any money or thing of value to the campaign fund of any political party, or to the campaign fund of any person who is a candidate for office in this State, or in any county thereof, or to the campaign fund of any person who is a candidate for the nomination for an office, and for violation of this section such corporation, firm, partnership or individual shall be guilty of a misdemeanor, and upon conviction shall be fined not less than one thousand dollars nor more than three thousand dollars in the discretion of the jury, and such acts shall also be a breach of their bond made with the State, and the venue of the action shall be within any county in the State where said violation of this section is committed, or in the Franklin

Circuit Court; and the State School Book Commission, or any one of the County School Book Commissions in the county where the offense is committed shall have the right to prosecute an action for the breach of said bond, and the fund recovered for the breach herein shall be turned over to the Treasurer of the State of Kentucky for the benefit of the common schools of Kentucky.

Affidavit required of contractor.

§ 14. Any corporation, firm, partnership or individual that shall contribute any money or thing of value to the campaign fund of any political party, or to the campaign fund of any person who is a candidate for an office in this State, or in any county thereof, or shall contribute to the campaign fund of any person who is a candidate for the nomination for an office at any time after the passage of this act shall not be awarded a contract for the furnishing of school books under the provisions of this act, and it shall be the duty of the State School Book Commission to require of bidders for the school book contract to make an affidavit that this section of this act has not been violated by such bidder, but in the event this section of this act has been violated by any bidder, the bid of such bidder shall not be considered in awarding the contract.

Agents required.

§ 15. It shall be the duty of any individual firm, company or corporation securing contracts under the provisions of this act to select or appoint as many agents in each county through which the books provided for shall be supplied, as may be required by the County School Book Commission.

§ 16. It being important to have the provisions of the uniform system of common school books for use in the State to become operative in its public schools at as early a date as possible to benefit thereby, the people, an emergency is declared to exist, and therefore this

act shall take effect from and after its passage and approval by the Governor.

Became a law February 8, 1904, the Governor not having approved or disapproved the same within the time prescribed by the Constitution.

CHAPTER 4.

AN ACT adopting as the law of the Commonwealth of Kentucky the edition of the Kentucky Statutes compiled by John D. Carroll and issued in 1903.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Carroll's Ky. Statutes adopted.

§ 1. That the edition of the Kentucky Statutes, compiled and edited by John D. Carroll, and issued in one thousand nine hundred and three, be, and the same is hereby adopted, as the law of the State, and in all actions and proceedings the laws therein contained, from section 1 to section 4879 inclusive, including amendatory or supplemental sections, may be cited and referred to as the law of the State by reference to any citation of said sections, and any of the chapters or sections therein may be amended or repealed by the General Assembly in the manner now provided by reference to and citation of the chapter and section without giving the date or title of the act from which the chapter or section is taken: *Provided,* That this act shall not be construed to render valid any invalid chapter or section or part thereof embraced in said statutes, or to amend, modify or repeal any law or part thereof now in force or effect and not included in said statutes.

§ 2. WHEREAS, This act will save a great deal of

labor and time in the investigation and enactment of laws, and will prevent confusion and uncertainty, an emergency is declared to exist, and this act shall take effect and be in force from and after its approval by the Governor.

Approved February 29, 1904.

CHAPTER 5.

AN ACT creating the county of Beckham.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the county of Beckham be, and the same is hereby, created, and the boundary lines thereof are established as follows: Boundary.

Beginning on three black oaks by the county, or old State road, the corner of John Reid's and Wilburn Hall's and Marion Oldfields' lands, being ten and one-half miles by survey from Grayson, the present county seat of Carter county, Kentucky; thence south 12 degrees 6′ east 36,740 feet to a small locust; thence south 56 degrees west 2,871 feet to a black oak near the open fork of Big Gimlet, thence north 4 degrees 30′ west 19,860 feet to a white oak on Mauck Branch so as to exclude William Binion's house; thence with the act of 1869, approved January 26, 1869, making Elliott county; thence with Mauck Ridge to the corner of Rowan, Elliott and Beckham counties; thence north 70 degrees 6′ west 14,465 feet; thence north 26 degrees 16′ west 70,15′ to the point near Briery Creek; thence due north 31 480 feet; thence north 9 degrees 15′ east 65,297 feet; thence due south 12,238 feet to a small hickory and oak on top of Three Prong ridge; thence south 5 degrees 19′ west 52,528 feet to the point of beginning.

County seat.

§ 2. The seat of government or county-seat of said county is Olive Hill.

Magisterial districts.

§ 3. Said county is, for the present, divided into five magisterial districts, numbered and bounded as follows:

District No. 1. Beginning at the point where the line of this county crosses Cave branch; thence with the division line between this county and Carter county to where it crosses Tygart's creek; thence up said Tygart's creek, with the meandering thereof, to the mouth of Jarvis branch; thence up said branch, with the meanderings thereof, including the farms of James Jarvis and Wm. Jordan, to the county road at the head of said branch; thence with the county road to the Corey school-house, on top of the hill; thence with the county road to the Elliott county line, crossing Big Sinking Creek at Providence school-house; thence with the Elliott county line to a set stone in said line, at a point due south from the main forks of Big Sinking Creek; thence with the county road leading to Limestone, but excluding all of Limestone West of the Jack Thompson branch; thence down Tygart's creek to the forks thereof, at the Chesapeake and Ohio Railroad bridge, near the residence of Ex-Senator Carpenter; thence up and with the Fleming Fork of Tygart's creek, to the mouth of Smith's Run creek; thence up said Run to the headwaters thereof, at a set stone on the ridge dividing the waters of said Smith's Run from those of Grassy, near the residence of Samuel J. Rayburn, but excluding it; thence with the top of said ridge to the Joseph Tutt's farm, on the headwaters of Buffalo creek; thence an East course with the top of the ridge that divides the waters of Buffalo and Smoky creeks, to where the old

Oakland school-house was burned; thence down Cave branch to the beginning.

District No. 2. Beginning at the point where the line between Beckham and Carter counties crosses Tygart's creek; thence following the division line between said counties to the line of Elliott county; thence with the Elliott county line to the corner of District No. 1; hence with the boundary lines of District No. 1, to the beginning.

District No. 3. Beginning at the forks of Tygart's creek, at the Chesapeake and Ohio Railroad bridge, a corner of District No. 1, and thence with the line of District No. 1 to the Elliott county line; thence with the line of Elliott county to where it intersects the line of Rowan county; thence with the Rowan county line to a set stone on top of the ridge which divides the waters of Tygart's creek from those of Kinniconick creek; thence with the top of said ridge to the corner of District No. 1, near the residence of Samuel J. Rayburn and including it; thence with the boundary line of District No. 1 to the beginning.

District No. 4. Beginning at the corner of District No. 1, at the Joseph Tutt's farm; thence running on top of the ridge dividing the waters of Buffalo creek from those of Laurel creek to the Lewis county line; thence with the line of Lewis county to the line of Greenup county; thence with the line of Greenup county to the line of Carter county; thence with the line of Carter county to the beginning.

District No. 5. Beginning at a set stone in the Rowan county line, a corner of District No. 3; thence with the line of District No. 3 in an east course to the corner of District No. 4, at the Joseph Fults' farm; thence with the north line of District No. 4 to the line

of Lewis county on Stafford's Hill; thence a west course with the line between Lewis and Beckham counties to the Rowan county line; thence with the Rowan county line to the place of beginning.

Board of commissioners.

§ 4. For the purpose of selecting and acquiring grounds upon which to erect and maintain all the necessary public buildings for said county, a board of commissioners is hereby created, to be composed of three members, who shall be appointed by the Governor within ten days after this act takes effect, from the two political parties, who shall be residents of this county, and who shall hold the office until the work of the said commission is completed, and any vacancy on which shall be filled by appointment by the fiscal court of said county.

Courts and public records.

§ 5 The said commission shall have power, and it shall be its duty, to provide temporary places for holding the courts and keeping the public records of said Beckham county until permanent buildings are provided for such purposes.

Appointment of officers.

§ 6. When this act takes effect it shall be the duty of the Governor to appoint from the eligible citizens of said Beckham county all the officers provided for a county by the Constitution and laws of this State, such officers to hold until the next regular State election and until their successors are elected and qualified.

§ 7. Inasmuch as the people living in the territory comprised by said Beckham county live very remote from the county seats of their former counties and are compelled to travel long, tedious and expensive journeys thereto, and as the expense of litigation and other public duties and privileges is very heavy, an emergency does exist, and therefore this act shall take effect and be in force from and after its approval by the Governor.

Approved February 9, 1904.

CHAPTER 6.

AN ACT to amend an act, entitled An act to regulate elections in this Commonwealth, approved June 30, 1892.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That section 1, article 3, of an act entitled, "An act to regulate elections in this Commonwealth," approved June 30, 1892, being section 1486, article 4, chapter 41, of the Kentucky Statutes, be, and the same is, hereby amended by adding after the word "fourth," in the second line of said section, the words "fifth and sixth," so that said section, as amended, shall read as follows:

§ 1. In all cities and towns of the first second, third, fourth, fifth and sixth classes there shall be a registration of all the qualified voters of the respective cities and towns, which registration shall be held and conducted as herein provided.

Registration required in 1st, 2d, 3d, 4th, 5th and 6th class cities.

That section 3 of the said act, being section 1488, article 4, chapter 41 of the Kentucky Statutes, be, and the same is, hereby amended, by adding to the end of said section the following:

"The officers of registration shall issue a certificate of registration to each voter registering at the time he registered, showing that he has registered, and the date of his registry, and no person who is required to register under the provisions of this act shall have the right to vote at any election held in this Commonwealth until he shall have presented to the election officers his certificate of registration.

"Any person who has registered and whose certificate of registration has been lost or otherwise destroyed after the registration books, containing his registration,

have been filed with the clerk of the county court, may upon filing his affidavit before the county court clerk showing that fact, obtain a duplicate certificate of registration, and, upon filing such an affidavit before the county court clerk, it is hereby made the duty of the said clerk to issue said certificate, for which he may charge the applicant a fee of fifty cents, and said certificate shall entitle the person named therein to vote as if issued by the officers of registration, and for the purpose of better enabling the officers of registration to carry out the provisions of this act, it is hereby made the duty of the county court clerk to furnish with the registration book, as in this act required, a sufficient number of printed certificates of registration to meet the requirements of this act and for which he shall be paid a reasonable compensation out of the county levy of the county," so that said section, as amended, shall read as follows:

Officers of registration certificate, affidavit.

§ 3. Officers of registration shall have the same power to preserve order at the places of registration as is exercised by sheriffs of election at the polls. If the officers of registration entertain any doubt as to whether or not any person offering for registration is entitled to such registration, or if any one's right to register is challenged, citizens may be called in, not exceeding three in number, who shall be examined touching the qualifications of such person or persons who offer to register. The officers of registration shall issue a certificate of registration to each voter registering at the time he registers, showing that he has registered, and the date of his registering, and no person, who is required to register under the provisions of this act, shall have the right to vote at any election held in this Commonwealth until he shall have presented to the election officers his certificate of registration.

Any person who has registered and whose certificate of registration has been lost or otherwise destroyed, after the registration books containing his registration have been filed with the clerk of the county court, may, upon filing his affidavit before the county court clerk, showing that fact, obtain a duplicate certificate of registration, and upon filing such an affidavit before the county court clerk, it is hereby made the duty of the said clerk to issue said certificate, for which he may charge the applicant a fee of fifty cents, and the said certificate shall entitle the person named therein to vote as if issued by the officers of registration, and for the purpose of better enabling the officers of registration to carry out the provisions of this act, it is hereby made the duty of the county court clerk to furnish with the registration books, as in this act required, a sufficient number of printed certificates of registration to meet the requirements of this act, for which he shall be paid a reasonable compensation out of the county levy of the county.

All laws and parts of laws in conflict herewith are hereby repealed.

Approved February 11, 1904.

CHAPTER 7.

AN ACT for the benefit of the Kentucky Children's Home Society.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That there is hereby appropriated out of any money in the treasury, not not otherwise appropriated, the sum of fifteen thousand dollars per annum payable

$1,500 appropriated.

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annually, for the benefit of the Kentucky Children's Home Society, and the Auditor of Public Accounts be, and he is hereby authorized and directed to draw his warrants upon the treasury annually in favor of the Treasurer of the Kentucky Children's Home Society for the sum of fifteen thousand dollars.

Provided, no part of said appropriations shall be paid until there has been executed on the part of said Society, a bond to the Commonwealth of Kentucky, with good and sufficient security, stipulating and providing that all of said sums of money so appropriated shall be applied to the purposes of the charter of said Society, that is, to the care, support and maintenance of homeless and destitute children in this Commonwealth, and providing homes for same, and a failure to do so to be a forfeiture thereof. Said bond to be approved by the Auditor of Public Accounts, and kept as a record in his office. If any part of said appropriations be not so applied then all of such part thereof as may be unexpended shall be returned to and covered into the State treasury. Said Society shall, by its proper officers, make an annual verified statement and settlement with the Auditor of Public Accounts showing when, where, and how said funds or appropriations have been applied and disbursed.

§ 2. The said Auditor is authorized and directed to draw his warrants upon the treasury in favor of the Treasurer of the Kentucky Children's Home Society, on the 1st day of June, 1904, and annually on the same day and date thereafter, for the sum of fifteen thousand dollars each.

Approved February 20, 1904.

CHAPTER 8.

AN ACT to amend an act, entitled "An Act to provide for the establishment and maintenance of a Confederate Home to be a charitable institution of the State of Kentucky, and providing for the care and maintenance of the infirm and dependent Confederate soldiers of the State of Kentucky, and to provide under proper conditions for the admission and care of soldiers who may have wives, and for those who may have rendered service to the Confederate cause," approved March 27, 1902.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section four of said act which reads as follows: Board of trustees, duties.

§ 4. "That said board of trustees are required to elect a president, treasurer and secretary from among their number and to fix the amount of bond which the treasurer shall be required to give, which bond shall be approved by the Governor of Kentucky and deposited with the Secretary of State. The Governor, at the time of appointing the Board, shall designate five of its members who shall hold their office for four years, five who shall hold their office for three years, and five who shall hold their office for two years; and thereafter every two years the Governor shall appoint five members of the said board of trustees. Vacancies occurring before the expiration of the term of any of the trustees shall be filled by appointment by the Governor. The members of said board of trustees shall perform the duties imposed upon them by the provisions of this act without compensation for their services. Said board of trustees shall, on the second Monday in January of each and every year, furnish a detailed report of all receipts and expenditures and of all property owned by the corporation, and a financial statement shall be made

under oath by the treasurer through the board of trustees of the financial transactions of the previous year, which shall contain a detailed statement of the money or other things received from every source on account of said home and an itemized account of its disbursements. Said board of trustees shall have power and authority to make all necessary rules and regulations for the control, management and maintenance of said Confederate Home, and for the admission and discharge of the inmates thereof, and shall also have full power to control and appoint and remove at will all the employes necessary in the management of the Home," is hereby amended to read as follows:

§ 4. The said board of trustees are required to elect a president from among their own number, and may at its discretion elect a treasurer and secretary either from among the members of the board of directors, or may if they deem it necessary elect some one either secretary or treasurer who is not a member of the board of trustees, and to fix the amount of bond which the treasurer shall be required to give, which bond shall be approved by the Governor of Kentucky, and deposited with the Secretary of State. The Governor, at the time of appointing the board, shall designate five of its members who shall hold their office for four years, five who shall hold their office for three years, and five who shall hold their office for two years; and thereafter every two years, the Governor shall appoint five members of the said board of trustees. Vacancies occurring before the expiration of the term of any of the trustees shall be filled by appointment by the Governor. The members of said board of trustees shall perform the duties imposed upon them by the provisions of this act without compensation for their services. Said board of trustees shall, on the Second

Monday in January of each and every year, furnish a detailed report of all receipts and expenditures, and of all property owned by the corporation, and a financial statement shall be made under oath by the treasurer, through the board of trustees, of the financial transactions of the previous year, which shall contain a detailed statement of the moneys or other things received from every source on account of said Home, and an itemized account of its disbursements. Said board of trustees shall have power and authority to make all necessary rules and regulations for the control, management and maintenance of said Confederate Home, and for the admission and discharge of the inmates thereof, and shall also have full power to control and appoint and remove at will all the employes necessary in the management of the Home."

§ 2. That section 6 which reads as follows:

Annual appropriation of $175 each.

§ 6. "For the maintenance of said home, there shall be allowed each and every year, out of the State Treasury, to be paid in quarterly installments, as is done in other charitable institutions maintained by the State of Kentucky, the sum of one hundred and twenty-five dollars for each and every inmate of said home, and upon a certificate signed by the president of said board of trustees as to the number of inmates in said home, the auditor shall issue his warrant quarterly for such sums as may be due, as provided for in this act."

Is hereby amended to read as follows:

§ 6. "For the maintenance of said home, there shall be allowed each and every year, out of the State Treasury, to be paid in quarterly installments, as is done in other charitable institutions maintained by the State of Kentucky, the sum of one hundred and seventy-five dollars for each and every inmate of said home, and upon a certificate signed by the president of said board of

trustees as to the number of inmates in said home, the auditor shall issue his warrant quarterly for such sums as may be due, as provided for in this act."

Aggregate sum, $20,000.

§ 3. That section 7 of said original act which reads as follows:

§ 7. "In case the per capita allowed for the maintenance of the inmates of the home shall be less than ten thousand dollars, the sum of ten thousand dollars shall be paid in quarterly installments as herein provided, for the maintenance of said home."

Is hereby amended to read as follows:

§ 7. In case the per capita allowed for the maintenance of the inmates of the home shall be less than twenty thousand dollars the sum of twenty thousand dollars shall be paid in quarterly installments as herein provided for the maintenance of said home.

§ 4. That section 8 of said original, act which reads as follows:

Admission to said home.

§ 8. Provided, That any person availing themselves of the benefits of this home shall before being admitted as inmates, present to the trustees a certified copy of his enrollment and muster into the military service of the Confederate States of America, and of his honorable discharge or parole at the termination of the war, but should said applicant be unable to procure documentary evidence of his services in the Confederate army, oral proof satisfactory to the trustees that he served in said army as an honorable soldier, and that he was honorably acquitted of said service shall be accepted by the trustees.

Is hereby amended to read as follows:

§ 8. Provided, That any persons availing themselves of the benefits of this home shall before being admitted as inmates, present to the trustees a certified copy of his enrollment and muster into the military service of the

Confederate States of America, and of his honorable discharge or parole at the termination of the war, but should said applicant be unable to procure documentary evidence of his services in the Confederate army, oral or written proof satisfactory to the trustees of the home, that he served in said army as an honorable soldier, and that he was honorably acquitted of said service or shall have rendered such service in the Confederate cause as justifies admission to said home, shall be accepted by the trustees.

And whereas, A number of Confederate soldiers, who are aged and infirm, and are married, and hitherto, under the law, could not be received into the home.

It is hereby enacted that the board of trustees may on any ground now owned in connection with said Confederate Home or which may hereafter be acquired, erect cottages, and may admit to said cottages aged and infirm Confederate soldiers who may be cared for by their wives, and so long as said Confederate soldier lives said wife may remain in said house or cottage with said soldier and the board of trustees may use the per capita allowed by the State under this act for the maintenance and care of said soldier and wife, and may provide for the maintenance of said soldier and his wife during the life of the said soldier out of said per capita.

And whereas, There is necessity for changes in the conduct and management of said Confederate home and immediate action is necessary in order to provide the comforts for its inmates, and suffering might exist without, an emergency is hereby declared to exist and this act should be in force and effect from and after its passage.

Approved February 26, 1904.

CHAPTER 9.

AN ACT appropriating money for the benefit of the Kentucky Confederate Home.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Appropriation of $57,600.

§ 1. That there is hereby appropriated out of the general revenue of the State for the benefit of the Kentucky Confederate Home, at Pewee Valley, Kentucky, to be expended by the board of trustees thereof, as hereinafter set forth, the following named sums for the specific purposes, constructions, improvements, and purchase of the same herein named, and set forth as follows, to-wit:

For water supply, an amount not to exceed ten thousand dollars;

For the construction of sewers, an amount not to exceed eighteen hundred dollars;

For the protection from fire and fire escapes, an amount not to exceed thirty-two hundred dollars;

For elevators, an amount not to exceed sixteen hundred dollars;

For quarters for eighty additional men, an amount not to exceed sixteen thousand dollars;

For infirmary and library room and fixtures, an amount not to exceed twenty thousand dollars;

For the purchase of land on which to erect additional buildings, and to give an outlet to the Louisville and Nashville railroad, an amount not to exceed five thousand dollars.

How expended.

§ 2. The money hereby appropriated shall be drawn on drafts by the board of trustees of said institution, signed by the president, such draft or drafts not exceeding in the aggregate the sums aforesaid, being made to

and upon him, the Auditor of Public Accounts shall draw his warrant or warrants upon the treasurer of the State in favor of the treasurer of said Confederate Home, for any sum, or sums of money not exceeding the amounts hereby appropriated to said institution, but no part of said money shall be paid out by the treasurer of said institution except in payments of the work and improvements mentioned in section one of this act, and the purchase of property before set out.

Duty of board.

§ 3. The president of the board of trustees shall advertise for bids for furnishing all labor and materials of every kind and description necessary for the construction, erection and completion of the building, and making of the improvements mentioned in section one, except as to the agreement or contract in reference to the purchase of land and all such bids shall be opened in the presence of the board of trustees, and it shall be with the latter to accept such bid or bids as it may deem the lowest and best, and if, in its judgment, all or any of such bids shall be unsatisfactory, such board of trustees may reject all or any of such bids, re-advertise for others in such matter, and so on until it shall be satisfied to accept bids and tenders.

Itemized statement.

§ 4. The board of trustees shall within sixty days after the completion of the buildings and improvements and the purchase of land provided for in the first section hereof, make an itemized statement, showing each and every item of expenditure made by said board under the provisions of this act, verified by the president of said board, which statement shall be filed with the statement of the Auditor of Public Accounts.

Money may be diverted to other use.

§ 5. If the amounts herein appropriated shall not be used for the particular object for which it is named in section two of this act, and be not needed for such specific purposes, then any surplus of such appropria-

tion may be used by the board of trustees for the benefit of the Kentucky Confederate Home, in the purchase of land, or erection of suitable buildings for the accommodation of the inmates. Any and all property acquired under the provisions of this act, shall be conveyed to the Commonwealth of Kentucky, upon the same condition as provided in the act of March 27, 1902, establishing said Confederate home.

§ 6. Because of the urgent necessity of the buildings and improvements herein contemplated, an emergency is declared to exist, and this act shall take effect from and after its approval.

Approved February 26, 1904.

CHAPTER 10.

AN ACT to repeal section 7, article 3, chapter 262, Acts 1891, 1892, 1893, approved July 12, 1893, entitled "An Act in relation to the library of the Commonwealth and the librarian thereof, and entitled 'Library,' and re-enacting same relative to the election of said librarian."

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Librarian term 4 years. Salary $1,200.

§ 1. That section 7, article 3, chapter 262, Acts 1891, 1892, 1893, approved July 12, 1893, entitled "An act in relation to the Library of the Commonwealth and the Librarian thereof, and entitled 'Library,'" be, and the same is hereby, repealed, and the following re-enacted in lieu thereof:

"§ 7. The present Librarian shall hold office until the first Monday in June, 1904, and the Librarian elected by the General Assembly in 1904, shall hold office until the first Monday in June, 1898. A Librarian shall be

elected by the General Assembly in 1908 and every four years thereafter.

"The Librarian shall receive an annual salary of twelve hundred dollars, payable in the same manner as the salary of the Governor. The Librarian shall hold office until his successor is duly elected and qualified."

§ 2. An emergency is declared and this act shall be in force from its approval by the Governor.

Approved February 27, 1904.

CHAPTER 11.

AN ACT to regulate the holding of circuit courts in counties in which there are towns over seventeen miles from the county seat, and having a larger population than the county seat.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Court held alternately.

§ 1. That, in all counties in the State having a town not larger than the fourth class, and containing a population larger than that of the County Seat according to the federal enumeration, 1900, and situated over seventeen miles from the county seat, the circuit court for each of said said counties shall be held alternately so as to divide the time between the county seat and the larger town as the business may require, the first part of each term as now provided by law to be held at the county seat, and the other part of the term to be held at the larger town.

Jurisdiction in civil cases.

§ 2. And all civil cases arising in each of said the county seat, and those cases where the first named defendant resides nearest to the said larger town shall be tried at the court held at the larger town.

Jurisdiction in criminal cases.

§ 3. All criminal cases arising in each of said

courts, shall be tried in the court held at the town situated nearest to the place where the offense was committed.

Court room, etc. How furnished.

Provided, That the expense of furnishing a court room and prison at said larger town shall be borne by the larger town, as well as the expense of securing a vault and depository for books and papers pertaining to the records of the circuit court of such county, and any other expense pertaining to the moving of records and holding of said court at the larger town without expense to the county.

Approved February 29, 1904.

CHAPTER 12.

AN ACT providing for the creation, control and disposition of a fund to be used in pensioning, under certain conditions, policemen, and the families of deceased policemen, in cities of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Board of trustees.

§ 1. That, in the month of July, in the year nineteen hundred and four, there shall be organized in connection with the police department in all cities of the first class in this Commonwealth, a board to be known as the Board of Trustees of the Policemen's Pension Fund, which board shall be composed of the mayor, the chairman of the Board of Public Safety, the City Treasurer, the Chief of Police and the Comptroller, and said board shall select from its members a president and a secretary. The City Treasurer shall be *ex officio* treasurer of said board, and of the funds coming into its hands. The members of said board shall continue members thereof until their respective successors are elected, or appointed, and qualified.

§ 2. There may be levied and set apart by the general councils of all cities of th first class in this Commonwealth, for the year nineteen hundred and five, a tax of not more than one cent on each one hundred dollars of value of the taxable property in said cities for said year, as a fund for the pensioning, as hereinafter provided, of members of the police department, and the families of deceased members thereof in said cities, and a like tax may be levied and set apart for the same purpose for each succeeding year until said fund shall have reached the sum of three hundred thousand dollars as of date the first of September, preceding, in which event the levy of said tax shall cease; but should said fund thereafter, as of the first of September in any year, fall below the sum of three hundred thousand dollars, then said tax may be levied for the next succeeding year and for each year thereafter until said fund shall have again reached the sum of three hundred thousand dollars as of the first of September immediately preceding the time of making the usual tax levy in said cities, it being one of the purposes of this act to permit the amount of said fund to be kept at all times as near as possible to three hundred thousand dollars. All moneys withheld from officers, members or employes of the police department as punishments for any breach of discipline, misconduct or violation of the rules and regulations of said department shall be paid into said fund each month and credited upon the pay-roll of the department, payable to said fund for that purpose, and all fines imposed by the Board of Public Safety upon officers, members or employes of the Police Department, by way of discipline, and collectible from pay or salary, shall be paid into the treasury to the credit of said fund. Donations may also be made to said fund by gift or devise. Such donations, together with the payments

Council may levy tax of one cent. on each $100.

aforesaid and the tax levy aforesaid, shall constitute and be kept as a fund to be called the Policemen's Pension Fund, and the Board hereinbefore designated is hereby declared to be the Trustee of said fund, and it shall have power and it shall be its duty, from time to time, to invent the same, in whole or in part, as it shall deem most advantageous for the objects of the said fund; and it is empowered to take all necessary remedies in the premises.

Management of said fund.

§ 3. Said Board shall have exclusive control and management of said fund, and may assess each member of the police department one per centum of the salary of such member, to be deducted and withheld from the monthly pay of each member so assessed, the same to be placed by the treasurer of each city of the first class to the credit of such fund, subject to the order of such Board.

Powers of said board.

§ 4. Said Board shall make all needful rules and regulations for its government in the discharge of its duties, and shall hear and decide all applications for relief or pensions under this act, and its decisions on such applications shall be final and conclusive, and not subject to review, revision or reversal, except by said Board, and a record shall be kept by its secretary of all the meetings and proceedings of said Board.

§ 5. Said Board of Trustees shall have power to draw said pension fund from the treasury and may invest the same, or any part thereof, in the name of the Board of Trustees of the Policemen's Pension Fund, in interest bearing bonds of the United States, or the State of Kentucky, or any city of the first class in the State of Kentucky, and all such securities shall be deposited with the treasurer of said Board, and shall be subject to the order of said Board.

How applied.

§ 6. Both the principal and interest of said pen-

sion fund shall be applicable to the payment of pensions under this act.

§ 7. If any officer, member or employe of the police department, while in the performance of his duty, becomes temporarily totally disabled, physically or mentally, for service, by reason of service in such department, the Board of Trustees shall order the payment from said pension fund to such disabled officer, member or employe, monthly, during such disability, not to exceed one year, a sum equal to the monthly compensation allowed such officer, member or employe as salary at the date of his disability, provided such officer, member or employe, during the same period, is paid no salary as such officer, member or employe. If any officer, member or employe of the police department, while in the performance of his duty, becomes mentally or physically permanently disabled by reason of service in such department, so as to render necessary his retirement from service in said department, said Board of Trustees shall retire such disabled officer, member or employe from service in such police department: *Provided,* no such retirement on account of disability shall occur unless such officer, member or employe has contracted such disability while in the service of said police department; and upon such retirement the Board of Trustees shall order the payment to such disabled officer, member or employe of such police department, monthly, from said pension fund, a sum equal to one-half of the monthly compensation allowed to such officer, member or employe as salary at the date of his retirement. If any officer, member or employe of said police department shall, while in the performance of his duty, be killed, or die as the result of an injury received in the line of his duty, or after having served in the department for fifteen consecutive years shall die, while

When, and by whom received.

in the service or on the retired list, from any cause, and shall leave a widow, or child or children under the age of fourteen years, or, if unmarried and childless, shall leave a dependent father or mother surviving, said Board of Trustees shall direct the payment from said pension fund, monthly, to such widow, while unmarried, of thirty dollars, and for each child until it reaches the age of fourteen years, six dollars, and to the dependent father and mother, if such officer, member or employe was unmarried and childless, thirty dollars, the pension to the father and mother to be paid as follows: If the father be dead, the mother shall receive the entire thirty dollars, and if the mother be dead, the father shall receive the entire thirty dollars, and if both living each shall receive fifteen dollars.

Retired after 20 years' service.

§ 8. Any officer, member or employe of the police department of such cities, having served twenty-five years or more, whether consecutively or not, in such police department, may make application to be retired from service in such police department, and, if his application is granted, said Board of Trustees shall order and direct that such person be paid from said Policemen's Pension Fund, a monthly pension equal to one-half the amount of salary said person was in receipt of as a member of said department at the time of the granting of his application: *Provided,* that no such application shall be granted, unless the person so applying shall have reached the age of sixty years.

Deficiency in fund.

§ 9. If at any time there shall not be sufficient money in the Policemen's Pension Fund to pay each person entitled to the benefit thereof the amount per month as herein provided, then an equal percentage of such monthly payments shall be made to each beneficiary until the said fund shall be so replenished as to

warrant the payment in full to each of said beneficiaries.

§ 10. Whenever an active or retired policeman shall die, the Board of Trustees may appropriate from the pension fund a sum not exceeding one hundred dollars, to his widow or family for funeral expenses, and may expend a sum not exceeding fifty dollars for the expense of the attendance of policemen at the funeral. Funeral expenses.

§ 11. No person shall be entitled to receive any pension from the said fund, except a regularly retired officer, member or employe, or a regular officer, member or employe in said police department, his widow, and children under the age of fourteen years, and his dependent father or mother. Who shall receive.

§ 12. The treasurer of the Board of Trustees shall be the custodian of said pension fund, and shall secure and safely keep the same subject to the control and direction of the Board, and shall keep his books and accounts concerning said fund in such manner as may be prescribed by the Board, and the said books and accounts shall always be subject to the inspection of the Board, or any member thereof. The treasurer shall, within ten days after his election or appointment, execute a bond to the city, with good and sufficient surety, in such penal sum as the Board shall direct, to be approved by the Board, conditioned for the faithful performance of the duties of his office, and that he will safely keep and well and truthfully account for all moneys and properties which may come into his hands as such treasurer, and that, upon the expiration of his term of office, he will surrender and deliver to his successor all bonds, securities, and all unexpended moneys, or other properties which may have come into his hands as treasurer of said fund. Said bond shall be filed in the office of the Comptroller as other bonds, Duties of treasurer.

and may be sued on in the name of said city, for the use of said Board, or in the name of said Board, or any person or persons injured by a breach thereof.

Warrants. § 13. It shall be the duty of such officer or officers of the city as are designated by law to draw warrants on the treasurer of said city, on request in writing by said Board of Trustees, to draw warrants on the treasurer of said city payable to the treasurer of said Board of Trustees, for all funds belonging to said pension fund as aforesaid.

How paid. § 14. All moneys ordered to be paid from said pension fund to any person or persons shall be paid by the treasurer of the Board of Trustees only upon warrant signed by the president of said Board, and countersigned by the secretary thereof, and no warrant shall be drawn except by order of the Board after having been duly entered on the records of the proceedings of the Board.

Report. § 15. The Board of Trustees shall make a report to the General Council of said city of the condition of said pension fund, on the last meeting night in August in each and every year.

Fund exempt from attachment, etc. § 16. No portion of said pension fund shall, before or after its order for distribution by the Board of Trustees to the persons entitled thereto, be held, seized, taken, subjected to, detained or levied by virtue of any attachment, execution, injunction, writ, interlocutory, or any other order or decree, or any process or proceeding whatever issued out of or by any court of this State for the payment or satisfaction, in whole or in part, of any debt, damage, claim, demand or judgment against the beneficiary of said fund; but said fund shall be held and distributed for the purposes of this act, and for no other purpose whatever.

Duty of city attorney. § 17. It shall be the duty of the attorney for cities

of the first class to give advice to the Board of Trustees of the Policemen's Pension Fund in all matters pertaining to their duties and management of said fund whenever thereunto requested, and he shall represent and defend said Board as its attorney in all suits or actions at law or in equity that may be brought against it, and bring all suits and actions in its behalf that may be required or determined upon by said Board.

Approved March 3, 1904.

CHAPTER 13.

AN ACT to enable the Louisiana Purchase Exhibition Commission to carry into effect an act, entitled "An Act to provide for the collection and exhibition of the resources of the Commonwealth of Kentucky at the Louisiana Purchase Exposition at St. Louis, Missouri, and making an appropriation therefor."

WHEREAS, It is made apparent that the commission appointed under said act is unable successfully to carry out the provisions thereof by reason of a lack of funds, as provided for in said act; therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the Auditor of Public Accounts shall, upon application of said commission, through its president and secretary, and with the approval of the Governor, draw his warrants upon the Treasurer of the State, from time to time, for such sums out of said appropriation as may be necessary to inaugurate and carry out the purposes of said appropriation. Auditor to draw warrant, when.

§ 2. All acts and parts of acts in conflict herewith are hereby repealed. Acts in conflict repealed.

§ 3. WHEREAS, Only a short time is left in which

to complete the work of the commission, an emergency is hereby declared to exist, and this act shall take effect from and after its passage and approval by the Governor.

Approved March 3, 1904.

CHAPTER 14.

AN ACT to amend an act, entitled "An Act relating to and providing for a court of appeals," approved June 17, 1893.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That an act relating to and providing for a Court of Appeals, approved June 17, 1893, be and the same is hereby amended, so that said act as hereby amended shall read as follows:

Section one of said act is hereby re-enacted and continued in force, and reads as follows:

Appellate judges and districts.

§ 1. On and after January one, one thousand eight hundred and ninety-five, the Court of Appeals shall consist of seven judges, to be elected from districts, and the State is divided into seven districts for said purpose.

§ 2. That section two of said act be and the same is hereby amended by striking from said section the county of Henderson, and adding thereto the county of Muhlenberg. So that said section as hereby amended shall read as follows:

First district.

§ 2. The first Appellate Court District shall consist of the counties of Ballard, Carlisle, Hickman, Fulton, Graves, McCracken, Calloway, Marshall, Livingston, Lyon, Trigg, Caldwell, Crittenden, Union, Webster, Hopkins, Muhlenberg and Christian.

§ 3. That section three of said act be and the same is hereby amended by striking from said section the counties of Muhlenberg and Cumberland, and adding thereto the county of Henderson. So that said section as hereby amended shall read as follows:

§ 3. The Second Appellate Court District shall consist of the counties of Henderson, McLean, Daviess, Hancock, Breckinridge, Ohio, Grayson, Butler, Edmonson, Warren, Allen, Simpson, Logan, Todd, Monroe and Meade. Second district.

§ 4. That section four of said act be and the same is hereby amended by striking from said section the county of Whitley, and adding thereto the county of Cumberland. So that said section as hereby amended shall read as follows:

§ 4. The Third Appellate Court District shall consist of the counties of Hardin, Bullitt, Nelson, Washington, Marion, Spencer, Larue, Hart, Green, Taylor, Adair, Metcalfe, Barren, Clinton, Wayne, Russell, Casey, Shelby, Oldham, Anderson, Pulaski and Cumberland. Third district.

§ 5. That section five of said act be and the same is hereby re-enacted and continued in force, and that section shall read as follows:

§ 5. The Fourth Appellate Court District shall consist of the county of Jefferson. Fourth district.

§ 6. That section six of the said act be and the same is hereby amended by striking from said section the counties of Clay, Laurel, Knox and Owsley. So that said section as hereby amended shall read as follows:

§ 6. The Fifth Appellate Court District shall consist of the counties of Henry, Trimble, Carroll, Gallatin, Owen, Scott, Franklin, Bourbon, Fayette, Wood- Fifth district.

ford, Garrard, Boyle, Jessamine, Madison, Mercer, Lincoln, Rockcastle and Jackson.

§ 7. That section seven of said act be and the same is hereby amended by adding to said section the counties of Bath and Elliott. So that said section as hereby amended shall read as follows:

Sixth district.

§ 7. The Sixth Appellate Court District shall consist of the counties of Boone, Campbell. Kenton, Grant, Harrison, Pendleton, Bracken, Robertson, Nicholas, Mason, Fleming, Lewis, Greenup, Carter. Rowan, Bath and Elliott.

§ 8. That section eight of said act be and the same is hereby amended by striking from said section the counties of Bath and Elliott, and adding thereto the counties of Owsley, Clay, Laurel, Knox and Whitley. So that said section as hereby amended shall read as follows:

Seventh district.

§ 8. The Seventh Appellate Court District shall consist of the counties of Montgomery, Powell, Menifee, Bell, Harlan, Leslie, Lee, Breathitt, Perry, Letcher, Knott, Pike, Floyd, Magoffin, Wolfe, Morgan, Lawrence, Boyd, Johnson, Martin, Owsley, Clay, Laurel, Knox, Whitley, Clark and Estill.

§ 9. The election of judges of Court of Appeals in said districts shall be held at the regular election therein, and every eight years thereafter, as follows: In the First, Second, Fourth and Sixth Districts, in one thousand eight hundred and ninety-four, and the judge then elected in said First District shall succeed the judge from the present Fourth Appellate District; in the Fifth District, in one thousand eight hundred and ninety-six, to succeed the judge elected from the present Second Appellate Court District; in the Third District, in one thousand eight hundred and ninety-eight, to succeed the judge elected from the present Third Appel-

late Court District; in the Seventh District, in one thousand nine hundred, to succeed the judge elected in November, one thousand eight hundred and ninety-two, from the present First Appellate Court District.

§ 10. Section ten of said act is hereby re-enacted and continued in force, and reads as follows:

§ 10. If any new county or counties be made, such county or counties shall be a part of the district in which the same, or the greater part thereof, shall be situated at the time of its establishment.

§ 11. This act shall take effect and be in force from and after its passage.

Approved March 4, 1904.

CHAPTER 15.

AN ACT to appropriate funds for the improvement and enlargement of the Western Asylum for the Insane, at Hopkinsville, Ky.

WHEREAS, Owing to the increase in the number of lunatics in the State, the asylums of the State are insufficient to accommodate the number legally entitled to be admitted to said asylums, and it is necessary to enlarge some one of said asylums; and,

WHEREAS, By reason of the abundance of water at the Western Asylum of Kentucky, and its excellent sewerage system, and its large amount of land, its capacity can be increased with more benefit to the Commonwealth and with greater economy than that of any other asylum; therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the sum of seventy-five thous- $75,000 appropriated.

and dollars be, and the same is, hereby appropriated out of any money in the State treasury collected, or to be collected, and not otherwise appropriated, for the purpose of building an extension to said asylum, consisting of two wings, or extensions, one on the east side, and the other on the west side of the present building.

How expended.

§ 2. The work referred to in section one of this act to be done under the supervision of the superintendent and Board of Commissioners of said asylum, or any commissioners hereafter appointed; said work to be paid for according to contract made by said Superintendent and commissioners by warrant of the Auditor of State upon the Treasurer of the State; said warrant to be drawn whenever an itemized statement of character of work done, and amount due for same, and signed by the superintendent and chairman of the Board of Commissioners of said asylum is filed with the Auditor.

Approved March 4, 1904.

CHAPTER 16.

AN ACT in regard to the exemption law.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

$50 exemption repealed.

§ 1. That section five, article fifteen, of an act entitled, "An act relating to executions," approved June 10, 1893, be, and the same is hereby repealed.

Said section so repealed reads as follows: "The wages, not to exceed fifty dollars, of all persons who work for wages, shall be exempt from execution, attachment, distress for rent, garnishment of fee bills:

Provided, That the exemption of fifty dollars shall not apply to debts contracted for food, raiment, or house rent for the family."

Approved March 4, 1904.

CHAPTER 17.

AN ACT to amend section 2, article 1, of an act, entitled "An Act to provide for an efficient system of common schools throughout the State," approved July 6, 1893.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section two, article one, of an act entitled "An act to provide for an efficient system of common schools throughout the State," approved July 6, 1893, be, and the same is hereby, amended by striking from said section the words, "three months in districts having thirty-five pupils or less; for four months in districts having more than thirty-five and less than forty-five pupils, and for five," and also strike out the words, "having forty-five or more pupils." Also strike out, "But after June 30, one thousand eight hundred and ninety-four, no school shall be deemed a 'common school,' or be entitled to any contribution out of the school fund, unless the same has been, pursuant hereto, actually kept, or is under contract to be kept, by a qualified teacher, for not less than five months during the same school year, free of expense to every pupil-child, as described above," and insert in lieu of the word "five," the word "six," so that when said section is amended it shall read as follows: Amends and re-enacts.

§ 2. No school shall be deemed a "common school," within the meaning of this chapter, or be entitled to Six months' term. Apportionment of school fund.

any contribution out of the school fund, unless the same has been, pursuant hereto, actually kept, or is under contract to be kept, by a qualified teacher for six or more months in all districts during the same school year, and at which every child residing in the district, between the ages of six and twenty years, has had the privilege of attending, whether contributing towards defraying the expenses or not:

Provided, That nothing herein shall prevent any person from attending the common school who will obtain the consent of the trustees and the teachers and pay the required tuition fees. In order that each child of the Commonwealth may enjoy the benefits of a six months' school, the Superintendent of Public Instruction shall for each school year apportion the fund for each county having one or more districts of less than forty-five pupil-children as follows: He shall apportion to each district, without regard to school population, the per capita of forty-five pupil-children, both from the fund derived from the tSate and the interest on the county bond, if any, and pro rate the remainder of the fund among the districts having more than forty-five such children: *Provided,* That any fractional balance shall be omitted in computing the said per capita, and that the aggregate of fractional balances shall be credited to the respective counties, and be taken into account the following year.

§ 2. All acts or parts of acts in conflict with this act are, to the extent of such conflict, hereby repealed.

Approved March 4, 1907.

CHAPTER 18.

AN ACT to amend and re-enact section 1, article 1, of an act, entitled "An Act to amend an act, and re-enact an act, entitled An Act relating to revenue and taxation," which became a law November 11, 1892, the Governor not having signed or returned same to the House in which it originated within the time prescribed by the Constitution, and as amended by an act, entitled "An Act to amend an act, entitled An act relating to revenue and taxation, which became a law without the approval of the Governor November eleventh, eighteen hundred and ninety-two," which was approved June 9, 1893, and as amended by an act, entitled "An Act to amend an act entitled An act relating to revenue and taxation, approved November eleventh, eighteen hundred and ninety-two," which was approved March 7, 1894, and as amended by an act, entitled "An Act to amend an act, entitled An Act relating to revenue and taxation, which became a law without the approval of the Governor, November eleventh, eighteen hundred and ninety-two," which was approved March 15, 1894, and as amended by an act, entitled "An act to amend section one, article six of chapter one hundred and three of Session Acts of one thousand, eight hundred and ninety-one, ninety-two, ninety-three, entitled "An Act relating to revenue and taxation, which became a law November eleventh, eighteen hundred and ninety-two,' which was approved March fifteenth, eighteen hundred and ninety-four, and as amended by an act, entitled 'An Act to amend section seven, article six, of an act relating to revenue and taxation, which was approved March nineteenth, eighteen hundred and ninety-four.' And as amended by an act, entitled 'An Act to amend an act, entitled, An Act to amend an act, entitled An Act relating to revenue and taxation, Session Acts, eighteen hundred and ninety-one, ninety-two, ninety-three, which became a law November eleventh, eighteen hundred and ninety-two, approved June ninth, eighteen hundred and ninety-three, which was approved March twenty-second, eighteen hundred and ninety-four. And as amended by an act, entitled 'An Act to amend an act approved November eleventh, eighteen hundred and ninety-two, relating to revenue and taxation and to amend an amendment to said Act of June ninth, eighteen hundred and ninety-three, relating to peddlers," which was approved March twenty-second, eighteen hundred and ninety-

four, and as amended by an act, entitled An Act to amend and re-enact section nineteen of an act, entitled An Act relating to revenue and taxation, approved November eleventh, eighteen hundred and ninety-two, as amended by section two, chapter forty-five of the Session Acts of eighteen hundred and ninety-four, the same being section four thousand, one hundred and forty-seven of the Kentucky Statutes, which was approved March seventeenth, eighteen hundred and ninety-six. And as amended by an act, entitled "An Act to amend and re-enact section one of an act, entitled, An Act regulating revenue and taxation, approved November eleventh, eighteen hundred and ninety-two," approved May eighth, eighteen hundred and ninety-seven, and as amended by an act, entitled "An Act to amend section four thousand one hundred and fifty-one of article seven ,chapter one hundred and eight, revenue and taxation, Kentucky Statutes (General Statutes, 1078) Acts eighteen hundred and eighty-six, approved May twelfth, eighteen hundred and ninety-seven, and amended by an act, entitled "An Act to amend an act, entitled An Act to regulate the assessment of property for taxation and the payment thereon belonging to non-residents of the counties in which the same is situated, approved March eighteenth, eighteen hundred and ninety-four," which was approved March seventh, nineteen hundred, and as amended by an act, entitled "An Act relating to the taxation of the shares of stock of national banks," being chapter twenty-three of the Session Acts of nineteen hundred, approved March twenty-first, nineteen hundred, so that said Act of November eleventh, eighteen hundred and ninety-two, and as amended by the above-stated subsequent acts and amendments thereto, as now amended and re-enacted, will read as follows, which act became a law June seventeenth, nineteen hundred and two.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

21 cents for ordinary expense. 26½ cents, common school. 3 cents for sinking fund.

§ 1. That section one, article one, of said act be amended by striking from said section the words, "twenty-two and one-half cents for the ordinary expenses of the government; twenty-two cents for the support of the common schools; five cents for the use of the sinking fund," and substituting therefor the following:

"Twenty-one cents for the ordinary expenses of the government; twenty-six and one-half cents for the support of the common schools; two cents for the use of the sinking fund." So that said section when amended and re-enacted shall read as follows:

"Article one, section one. An annual tax of fifty cents upon each one hundred dollars of value of all property directed to be assessed for taxation, as hereinafter provided, shall be paid by the owner, person, or corporation assessed. The aggregate amount of tax realized by all assessments shall be for the following purposes:

"Twenty-one cents for the ordinary expenses of the government; twenty-six and one-half cents for the support of the common schools; two cents for the use of the sinking fund; one-half of one cent. for the Agricultural and Mechanical College, as now provided by law by an act, entitled "An act for the benefit of the Agricultural and Mechanical College," approved April twenty-ninth, one thousand eight hundred and eighty, including the necessary traveling expenses of all pupils of the State, entitled to free tuition in such college, and who continue students for a period of ten months, unless unavoidably prevented."

§ 2. All acts or parts of acts in conflict with this act, are to the extent of such conflict hereby repealed.

Approved March 4, 1904.

CHAPTER 19.

AN ACT providing for and authorizing the Curator of the Kentucky State Geological Department to resume the geological, topographical and agricultural survey of the State of Kentucky, and providing for topographical surveys in co-operation with the United States Geological Survey.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Duties of curator.

§ 1. That the curator of the State Geological Department be, and is hereby, authorized and directed to resume the geological, topographical and agricultural survey of the State. He shall be director of said survey and it shall be his duty as such director to formulate, in accordance with the provisions of this act, the plans governing the operations of the survey; to regulate and supervise the work in field and office; to determine the character, order and time of publication of the reports of the survey, and to perform such geological and other work as may be necessary for the proper and successful conduct of the survey. And it is hereby expressly provided that said curator shall not receive any compensation, directly or indirectly, for directing the survey other than, or in excess of, what he now receives as curator. But he shall be allowed and paid his necessary field and traveling expenses when absent from his office on business connected with the survey. The bond now required of, and given by, the Curator shall also apply in his relation as director of the survey.

Salary of assistant, $2,000.

§ 2. The director of the survey is hereby authorized to appoint, subject to approval by the Governor, a suitable person to be principal assistant to aid in carrying out the provisions of this act. Said principal assistant shall receive an annual salary not to exceed

two thousand dollars, the definite amount of which shall be fixed by the Governor, payable monthly, and shall be allowed and paid his necessary field expenses. The director of the survey shall also appoint, upon approval by the Governor, such other assistants and employes as may be necessary, for such times as their services may be required. Their compensation shall be such as may be fixed by the Governor, upon recommendation of the director, but it shall in no case exceed five dollars per day for each day employed in the work of the survey, and they shall be allowed and paid their necessary field expenses: *Provided, however,* That whenever it may be deemed necessary for the best interests of the State to temporarily employ the services of specialists to study and report upon particular subjects or mineral deposits, for which they may be especially fitted, the director of the survey may, with the approval of the Governor, engage the services of such expert persons, and their compensation shall be such as may be fixed by the Governor upon the recommendation of the director; but it shall not exceed ten dollars per day for each day actually employed exclusive of the necessary field expenses, which shall be allowed and paid them: *And provided further,* That the director may enter into co-operative arrangements for geologic and hydrographic work with the United States Geological Survey in such instances as it may be of advantage to the State to do so.

Accounts, itemized and verified.

§ 3. All accounts for compensation and expenses shall be itemized and certified to on oath by the person rendering the same, and shall be accompanied by vouchers showing to whom and for what the sums set forth as expenditures were paid; and they shall, after receiving the endorsement of the director of the survey, then

be presented to the Governor for his approval, and the Governor having approved them, shall thereupon direct the Auditor of Public Accounts to draw his warrant on the Treasurer for the same. And the director shall keep an itemized account of all expenditures, of whatsoever kind, including all salaries and other items of compensation, under appropriate headings, in a book, or books, especially provided for such purpose; and at the end of each quarter of the year he shall submit his accounts so kept to a supervisory board, consisting of the Governor, Secretary of State and Auditor, for their inspection and approval.

Librarian to supply stationery.

§ 4. It shall be the duty of the State Librarian to supply the office of the geological survey with all necessary stationery for the use of said survey, as other public offices are supplied, upon the requisition of the director of the survey approved by the Governor.

Reports of director.

§ 5. It shall be the duty of the director of the survey and his assistants to examine, study and report upon the economic geology of the State especially, giving particular attention to such mineral resources as coal, iron, lead, zinc, barite, fluorite, clays, shales, building stones, asphalt rock, road and paving materials, salt, cement materials, natural fertilizers, petroleum, natural gas, pigment earths, abrasives, marbles, lithographic stones, and other minerals; determining their location and extent, which shall be shown on appropriate diagrams and maps, their relations to transportation routes, actual and possible, and their chemical and physical qualities to such extent as may be necessary in each case; and such investigations shall be conducted along such lines as will prove of practical value in ascertaining and exhibiting the fitness for commercial uses of the various substances reported upon, and shall include such standard and practical tests as are neces-

sary and usual in determining the commercial values of the various materials under investigation. The occurrence of mineral springs shall also be noted and the waters analyzed when necessary, and the water powers of the State shall be investigated. The soils of the State shall also be studied, with reference to their fitness for various classes of crops, with a view to determine the proper fertilizers for impoverished ground, and such results as are appropriate shall be embodied in a soil map. The character and distribution of the timbers of the State shall also be determined.

Kinds of reports.

§ 6. In furtherance of the object sought to be attained by this act, and in order that the results of the survey may be presented in most convenient form, the reports of the survey shall be divided into three classes, namely: (1) Subject reports, (2) county reports, (3) general or index report. (1) The subject reports shall consist of a series of special economic reports issued as bulletins, each report dealing with some particular mineral occurrence or particular subject, such as enumerated in section 5, and treating it in an exhaustive way with reference to its occurrence throughout the State as a whole: but in cases where the occurrence of any one mineral is limited in amount or extent, or where two or more mineral occurrences may more appropriately be treated together, then a bulletin may be issued including more than one subject. To carry out the provisions of this section, therefore, there shall be issued a special report on the coals of the State, which may be divided into two parts, one on the coals of the eastern field and one of those of the western field; a similar report on the clays, shales and cement materials of the State; one on the building stones and marbles; one on the lead and zinc ores and the barite and fluorite deposits; one on

petroleum and natural gas; one on asphalt rock and road materials, and so on, appropriate bulletins being issued with reference to the various subjects of investigation coming within the province of the survey, the results of the soil survey being published in the form of an agricultural bulletin. Said reports shall be accompanied by all diagrams and illustrations necessary to render them full and complete. In order that the results of the survey may be given to the public as expeditiously as possible, the bulletins herein provided for shall be the form of publications to be issued first, and in cases of urgency, the director may issue preliminary parts of a bulletin, covering the special work so far as it has progressed, in advance of the completion of the entire bulletin. (2) The county reports shall consist of full and complete reports on the mineral, agricultural and other natural resources of each county, accompanied by maps and diagrams showing the geological formations of the county, with their dips and flexures, and such items of topography as the resources of the survey will permit. (3) The general report shall relate to the distribution of the geological formations and mineral resources of the State as a whole, its purpose being to present a general view of the natural resources of the State, and to serve as an index to the occurrences of the mineral deposits and distribution of timbers by citations to the special bulletins and county reports wherein extended descriptions of the same may be found.

Printing of reports.

§ 7. The reports prescribed in the foregoing section shall be prepared as rapidly as the means provided for the prosecution of the survey will permit, and as soon as each report is ready for publication it shall be submitted to the Governor for his approval, and when approved it shall be submitted to the Commissioner of

Public Printing of the State, who shall provide for the printing of it, the cost thereof to be paid out of the general expenditure fund as in the case of other official reports; and said printing commissioner shall determine the number of copies, if any, which shall be printed in excess of the minimum number prescribed in this section, and the grade of paper to be used, the kind of binding, and other details incident to its proper publication. The minimum number of copies of each report printed shall not be less than 1,000, of which 300 copies shall be distributed among members of the General Assembly and public offices at the Capital, and 200 copies placed at the disposal of the director of the survey, to be exchanged for publications of other surveys and of scientic institutions and technical journals, and to be distributed among public libraries and men of science, and among members of the survey on the basis of one copy to each member; and the remainder shall be sold at a price fifteen per cent, above the cost of publication, and all moneys received from sales shall be turned into the State Treasury to the credit of the general revenue. All reports of the survey shall be stereotyped, and upon recommendation of the Governor the printing commissioners may order new editions printed of any report of map provided for herein, or of any report or map issued by the geological survey in former years, in event editions of the same should be exhausted, whenever in the judgment of said officials the public demand for such report or map justifies such reprinting; but all copies of reprinted reports and maps shall be sold at a price fifteen per cent. above cost of reprinting, and all moneys received from sales shall be turned into the Treasury to the credit of the general revenue. And the printing commissioners are also authorized to have printed, in the same manner and on the same terms

specified in this section for the printing of new reports, any manuscript reports or maps which were prepared by the geological survey that may be in the archives of the survey, the same to first receive the approval of the Governor.

Co-operation with director of U. S. geological survey.

§ 8. The director of the survey is hereby authorized to enter into agreement with the Director of the United States Geological Survey for co-operative topographical surveys in this State: *Provided,* That the United States Geological Survey shall expend in each case of surveying agreed upon an amount equal to that allotted for such work by the Director of the Kentucky Survey under authority of this act: *And provided further,* That such an agreement may be made as will in all things prove advantageous to this State, and receive the approval of the Governor.

Annually to report expenditures.

§ 9. The director of the survey shall annually make report to the Governor, to be transmitted to the General Assembly, showing the progress made by the survey, and giving account of the expenditures that have been made, setting forth in said account, under appropriate heads, for what purposes such expenditures were made.

Officials and employees prohibited.

§ 10. No employe or official of the survey shall be interested in any speculation in mineral lands in this State; neither shall they engage in the buying or selling of such lands, nor shall any one of them give out any private information concerning discoveries they may make in the course of their investigations, except that they shall not withhold information from the actual owner of the land upon which such discoveries may be made; and they shall not engage for personal compensation in making private reports on mineral properties for private persons or for corporations: *Privided however,* That they may, within the discretion of the director and upon the approval of the Governor, publish in

ublic journals, or in the publications of scientific ocieties, such matter as may appear to be of sufficient mportance to the public to warrant publication in ad- ance of the issuing of the regular reports of the survey: *nd provided*, That they may, in official capacity, make uch examinations for the owners of mineral properties hich the owners thereof desire to develop, as will aid in uch work of development, when the same can be done ithout detriment to the progress of the survey, all such xaminations to be reported in the annual report of the irector. Violation of the provisions of this section, on he part of any person employed on the survey, shall be ufficient cause for his removal by the Governor.

§ 11. For the purpose of carrying into effect the rovisions of this act there is hereby appropriated from ny money in the State Treasury, not otherwise appro- riated, the sum of fifteen thousand dol- ars annually, which shall be allotted as ollows: For the geological, chemical, general, opographical, hydrographical and other investigations uthorized by this act, including all salaries and field xpenses, together with office expenses, clerical assist- nce, purchase and repairs of instruments and field quipments, repairs and maintenance of the State Iuseum, freight charges on specimens and other ma- erials, and all necessary miscellaneous items, the sum f ten thousand dollars per annum; for opographic surveys, in co-operation with the nited States Geological Survey, subject to the rovisions of section 8, the sum of five thousand dollars er annum: *Provided*, That in event it should at any ime prove that said co-operative work is not being con- ucted to the best advantage of the State, the Director f the State Geological Survey is hereby authorized to ithdraw from such co-operation, when so advised by

$15,000 appropri- ated.

the Governor, and any unexpended balance shall turned back into the Treasury.

§ 12. In consideration of the widespread demand for information concerning the mineral and other natural resources of the State, the fact that the editions of most of the geological reports and maps that have hitherto been issued are exhausted, and the necessity for expedition in the prosecution of the work provided for by this act, an emergency is hereby declared, and this act shall take effect upon its approval by the Governor; but the foregoing appropriations shall only be for two years.

Approved March 5, 1904.

CHAPTER 20.

AN ACT to amend an act, entitled "An act for the relief of the Court of Appeals," approved October 5, 1900.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Assistant's compensation not to exceed $100 per month.

§ 1. That section one of an act, entitled "An act for the relief of the Court of Appeals," approved October 5, 1900, be stricken out and the following inserted in lieu thereof;

"That the judges of the Court of Appeals are hereby empowered to employ clerical assistance for each of said judges, and fix the compensation to be paid such assistants. Such compensation shall be paid monthly out of the treasury upon the warrant of the Auditor of Public Accounts, which shall be issued upon the certificate of the Chief Justice; and the compensation of such assistants shall not exceed for each assistant one hundred dollars a month. Such assistants shall be sub-

ject to removal at the pleasure of said judges and shall not practice law or accept any employment or render any service as attorney or counsellor-at-law in the Court of Appeals.

§ 2. Because of the necessity of the clerical assistance herein provided for, there is an emergency that this act take immediate effect, and this act shall take effect upon its approval by the Governor, or its passage.

Approved March 8, 1904.

CHAPTER 21.

AN ACT to amend an act, entitled "An act for the creation and regulation of private corporations," being an act relating to services of the clerical and actuarial assistance necessary to the discharge of the duties devolving by law on the insurance department, or on the commissioner.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That an act entitled "An act for the creation and regulation of private corporations," which act was amended by the act of the General Assembly in 1894, being section 747, Kentucky Statutes of 1903, be, and the same is hereby amended as follows:

Salaries and clerical assistance.

"Striking therefrom the words "thirty-five hundred dollars," and inserting in lieu thereof, "five thousand dollars," so that the same shall read as follows when amended:

The Insurance Commissioner shall receive an annual salary of three thousand dollars per year, and the deputy shall receive two thousand dollars per year. There shall also be paid five thousand dollars to secure the clerical and actuarial assistance necessary to the discharge of all the duties devolving by law on the Insur-

ance Department, or on the Commissioner. The salaries shall be paid monthly out of the Treasury of the Commonwealth, out of the insurance fund, in the same manner as other salaries are paid, and the other expenses of the Department shall be paid out of the same fund by the warrant of the Auditor upon vouchers signed by the Commissioner.

Became a law March 8, 1904, the Governor not having approved or disapproved the same within the time prescribed by the Constitution.

CHAPTER 22.

AN ACT regulating the sales of stocks of merchandise in bulk, or a portion thereof, out of the usual course of business, for the purpose of preventing fraud upon creditors, and fixing a penalty therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Fraudulent and void sales of merchandise in bulk.

§ 1. A sale by a merchant engaged in business in this State, of any portion of a stock of merchandise, otherwise than in the ordinary course of his trade, and in the regular and usual prosecution of his business, or a sale of an entire stock of merchandise in bulk by such merchant, shall be fraudulent and void, as against the creditors of the seller arising out of said stock of merchandise, unless the purchaser shall, at least five days before the consummation of the sale, in good faith, for the purpose of giving the notice herein required, make inquiry of the seller as to the names and places of residence, or places of business of each and all of the creditors of the seller, arising out of said business, and unless the purchaser, at least five days before the consummation of the sale, shall notify, or use rea-

onable diligence to cause to be notified, personally, ach of the seller's said creditors, or shall deposit in he mail a registered letter of notice, postage prepaid, ddressed to each of the seller's said creditors at his post ffice address, according to the information furnished y the seller of said proposed sale. Said information hall be by written statement by the seller and the purhaser shall not be responsible to any creditor not mentioned in said written statement. If the purchaser ail to give such notice as herein required, he shall hold he merchandise so purchased for the use and benefit of ll the creditors of the seller, and shall be responsible o them for the fair value of such part thereof as he, the urchaser, may have transferred or conveyed to others. Nothing in this act shall be deemed or construed in anyise to authorize or validate any sale made with intent o delay, hinder or defraud creditors, purchasers or ther persons, but such sales made with such intent hall be governed and controlled as provided by an act f the General Assembly, approved December 20, 1892, ntitled "An act in relation to fraudulent and preferential conveyances, and entitled 'Fraudulent and Preferential Conveyances,'" and the amendments thereto.

Actions must be instituted within 90 days

§ 2. All civil actions brought under this act shall e instituted within ninety days of the consummation f the sale.

Seller deemed guilty of a misdemeanor if he conceals facts.

§ 3. The seller shall make full and truthful answer o each and all of the inquiries made of him by the purhaser, as required in section 1, and if such seller shall nowingly and wilfully make or deliver, or cause to e made or delivered, to said purchaser any false answer o such inquiries, or shall induce a sale by refusing to ake answer to such inquiries, or by fraudulently claimng or pretending ignorance of the matters called for by uch inquiries, then in each of said cases said seller

shall be deemed guilty of a misdemeanor, and upon indictment and conviction thereof in the county where said acts are done, he shall be punished, in the discretion of the jury, by a fine of not less than one hundred nor more than five hundred dollars, or by confinement in the county jail not less than thirty days nor more than six months, or both so fined and imprisoned.

Sales excepted

§ 4. Nothing contained in this act shall apply to sales made under any order of a court, or to any sales made by executors, assignees, administrators, receivers, or any public officer in his official capacity, or by any officer of a court.

Provided, That nothing in this act shall be so construed as to give any manufacturer, wholesale merchant or jobber any right to or lien on any merchandise or article in any stock of goods, except goods sold and delivered by such manufacturer, wholesale merchant or jobber.

Became a law March 8, 1904, he Governor not having approved or disapproved the same within the time prescribed by the Constitution.

CHAPTER 23.

AN ACT assigning the county of Beckham to various districts, and fixing the time of holding courts therein, and in the twentieth circuit court district to which it is assigned.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Appellate Court District.

§ 1. That the county of Beckham is hereby assigned to the Sixth Appellate Court District, and said Appellate Court District shall be composed of the following counties, viz: Boone, Campbell, Kenton, Grant, Harrison, Pendleton, Bracken, Robertson, Nicholas,

Mason, Fleming, Lewis, Greenup, Carter, Rowan and Beckham.

§ 2. That the said county is hereby assigned to the Twentieth Circuit Court District, and said district shall be composed of the counties of Carter, Boyd, Lawrence, Elliott, Morgan and Beckham. 20th Circuit Court District.

§ 3. The time for holding circuit courts in said district shall be as follows: Boyd county, at Catlettsburg, on the first Monday in January, second Monday in April and the first Monday in September, and continue eighteen juridical days each term. Beckham county, at Olive Hill, on the Monday succeeding the termination of the Boyd Circuit Court, and continue twelve juridical days each term. Carter county, at Grayson, on the Monday succeeding the termination of the Beckham Circuit Court, and continue twelve juridical days each term. Lawrence county, at Louisa, on the Monday succeeding the termination of the Carter Circuit Court, and continue eighteen juridical days each term. Elliott county, at Martinsburg, on the Monday succedineg the termination of the Lawrence Circuit Court, and continue twelve juridical days each term. Morgan county, at West Liberty, on the Monday succeeding the termination of the Elliott Circuit Court, and continue twelve juridical days each term. Circuit court

§ 4. Any case or proceeding now pending in any of the adjoining circuit court districts, affected by the bill creating the county of Beckham, which, in the discretion of the circuit court of said districts, should be transferred to the Beckham Circuit Court by reason of the residence or convenience of the litigants or otherwise, may be transferred to said Beckham Circuit Court.

§ 5. The county court of said county shall be held on the first Monday in each month, and the quarterly County court.

court shall be held at such time and in such manner as is now prescribed by general law.

Thirty-fifth Senatorial District.

§ 6. Said counyt is hereby assigned to the Thirty-Fifth Senatorial District, and said district shall be composed of the counties of Rowan, Bath, Fleming, Carter, Menifee and Beckham.

Representative District.

§ 7. Said county is hereby assigned to the Eighty-Ninth Representative District, and said district shall be composed of the counties of Lewis and Beckham.

§ 8. Said county is hereby assigned to the Third Railroad Commissioner's District, and said district shall be composed of the counties of Boone, Kenton, Grant, Harrison, Bourbon, Clark, Estill, Madison, Jackson, Laurel, Rockcastle, Whitley, Knox, Bell, Harlan, Leslie, Perry, Letcher, Floyd, Pike, Martin, Johnson, Breathitt, Clay, Owsley, Lee, Powell, Montgomery, Bath, Nicholas, Fleming, Robertson, Pendleton, Bracken, Campbell, Lewis, Mason, Greenup, Rowan, Carter, Elliott, Boyd, Lawrence, Morgan, Magoffin, Wolfe, Menifee, Knott and Beckham.

Congressional District.

§ 9. Said county is hereby assigned to the Ninth Congressional District, and said district shall be composed of the counties of Bracken, Bath, Boyd, Carter, Fleming, Greenup, Harrison, Lewis, Lawrence, Mason, Nicholas, Robertson, Rowan and Beckham.

§ 10. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 11. Whereas the proper organization and the due conduct of business in the county of Beckham requires its immediate assignment to its proper districts, an emergency is hereby declared to exist, and this act shall take effect from and after its passage and approval by the Governor.

Approved March 8, 1904.

CHAPTER 24.

AN ACT to provide additional clerical assistance for the auditor's office and the land office.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That in addition to the amount now appropriated for clerk hire for the conduct of the business of the office of Auditor of Public Accounts proper, and the Land office, which is now a department of the office of Auditor of Public Accounts, there is hereby appropriated out of any money in the Treasury not otherwise appropriated the sum of $3,000, annually, to be disbursed for additional clerk hire, monthly, as other salaries in said offices are now paid, and to be applied to the payment of the necessary additional clerical assistance in the Land office department and in the Auditor's office proper. Clerical assistance. $3,000 appropriated,

§ 2. The amount now allowed by law for the employment of clerical assistance in said department being inadequate for the transaction of the public business, an emergency is hereby declared to exist, and this act shall take effect and be in full force from the date of its passage and approval by the Governor.

Approved March 9, 1904.

CHAPTER 25.

AN ACT to amend an act for government of cities of the first class, approved July 1, 1893, and to repeal section 40 of said act, and to substitute a section for said section 40.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That an act entitled, "An Act for the Government of Cities of the First Class," approved July 1, 1893, be, and the same is hereby, amended as follows, to-wit:

Boards of public works and safety.

§ 1. That section 40 of said act, which is the same as section 2802 in the compilation generally styled "Kentucky Statutes," be repealed. Said section so repealed is in words and figures as follows:

"The following executive boards are hereby established in said cities: A Board of Public Works and a Board of Public Safety. The members of said boards shall be appointed by the Mayor, with the approval of the Board of Aldermen, in the month of December succeeding his election, for a term of four years. The members of said boards shall have the same qualifications as members of the general council. No member or officer of the general council shall be eligible in said boards."

In lieu of section forty of the said act, hereby repealed as aforesaid, and as a substitute for the same, be it now enacted as follows:

"The following executive boards are hereby established in said cities: A Board of Public Works and a Board of Public Safety. The members of said boards shall be appointed by the Mayor, in the month of December succeeding the election of the Mayor, and the members of the boards so appointed shall be removable at any time at the pleasure of the Mayor so appointing

them, or of any of his successors in office, but not by any officer who may merely for the time be filling the office of Mayor in the absence or under the temporary disability of the regularly elected or appointed Mayor. The members of said boards shall have the same qualifications as members of the general council. No member or officer of the general council shall be eligible to membership in either of said boards. The first members of said boards shall be appointed by the Mayor, as soon as practicable after the passage of this act, and the present boards shall cease to exist, and the terms of office of the present members shall cease and determine immediately upon the passage of this act, and the appointment of their successors, and all the powers and obligations and duties now vested in the present executive boards, together with all rights of action, shall immediately vest in the boards hereby created and the members appointed by virtue of this act, the same as though the aforesaid section forty had not been repealed."

WHEREAS, It appears that there is a lack of responsibility and a conflict or authority among the members of said boards heretofore appointed for cities of the first class, and,

WHEREAS, It is believed that the Mayor of the city should be responsible to the people for the good government of the city through the executive boards, and that he can be held responsible by the people only by virtue of his complete control of the boards appointed by him and his right to change the said boards and the members thereof, at pleasure, an emergency exists for the immediate enforcement of this act, and it is therefore enacted and provided that this act shall take force and have effect immediately upon its passage.

Approved March 9, 1904.

CHAPTER 26.

AN ACT in regard to the collection of checks and drafts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Usual commercial way is diligence.

§ 1. That in order to hold the maker, indorser, guarantor, or surety of any check or draft deposited with or forwarded to any individual or bank for collection, or owned by any individual or bank, it shall be sufficient for said individual or bank to forward the same in the usual commercial way now in use, according to the regular course of business, and the same shall be considered due diligence in the collection of such check or draft.

§ 2. All laws which are in conflict with this act are hereby repealed.

Approved March 11, 1904.

CHAPTER 27.

AN ACT appropriating an additional sum of money for clerk hire in the office of the State treasurer.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Additional clerical force.

§ 1. There is hereby appropriated the sum of fifteen hundred dollars per annum to the State Treasurer, for the purpose of securing additional clerical force in his office.

§ 2. WHEREAS, There is an urgent need for said additional clerk hire, an emergency is hereby declared to exist, and this act shall take effect upon its passage and approval.

Approved March 12, 1904.

CHAPTER 28.

AN ACT to amend an act, entitled "An Act to amend certain sections of the common school law, and providing for the more efficient management of the common schools," approved March 21, 1902.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That an act to amend certain sections of the common school law, and providing for the more efficient management of the common schools, approved March 21, 1902, be, and the same is hereby amended by striking out the word "one-fifth" whenever it occurs and inserting in lieu thereof the word "one-sixth;" also by striking out "two-fifths" and insert "two-sixths," and by adding after the word "January" the words "one-sixth of the whole amount; and on or before the first of February," and by adding to section 2 thereof, being section 4376, Kentucky Statutes, the following words, to-wit:

Distribution of school fund.

"Provided, that if on the first day of October, November or December, the amount in the treasury to the credit of the school fund be insufficient to admit of a full distribution of the proportion required by this act, then the Auditor of Public Accounts shall, upon the successive warrants of the Superintendent of Public Instruction, distribute the amount of the school fund then on hand proportionately, without preference or partiality, to all the school districts in the State as heretofore directed, and in no event shall any school district entitled to participate, be omitted or excluded in any distribution, or a further distribution be made to any district or districts, until all other districts have been made equal on any previous distribution theretofore made."

Said section when amended will read as follows:

"For each school year the Auditor of Public Accounts shall, on the successive warrants of the Superintendent of Public Instruction, distribute the amount of the school fund due each county Superintendent of Common Schools, and the amount due each city, town or village, organized as one district to the Treasurer of the School Board thereof, as follows: On or before the first of October, one-sixth of the whole amount; on or before the first of November, one-sixth of the whole amount; on or before the first of December, two-sixths of the whole amount; on or before the first of January, one-sixth of the whole amount, and on or before the first of February the residue, including the undistributed surplus; *Provided*, That if on the first day of October, November or December, the amount in the treasury to the credit of the school fund be insufficient to admit of a full distribution of the proportion required by this act, then the Auditor of Public Accounts shall, upon the successive warrants of the Superintendent of Public Instruction, distribute the amount of the school fund then on hand proportionately, without preference or partiality, to all the school districts in the State as heretofore directed, and in no event shall any school district entitled to participate, be omitted or excluded in any distribution, or a further distribution be made to any district or districts until all other districts have been made equal on any previous distribution theretofore made.

§ 2. All laws and parts of laws in conflict herewith are hereby repealed.

Approved March 12, 1904.

CHAPTER. 29.

AN ACT to regulate crime and fix the punishment therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. If any person shall steal chickens, turkeys, ducks, or other fowls of the value of $2, or more, he shall be confined in the penitentiary not less than one nor more than five years. Felony to steal chickens.

Approved March 17, 1904.

CHAPTER 30.

AN ACT to provide for an amendment to section 147 of the Constitution of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That upon the concurrence of three-fifths of all the members elected to each House, the yeas and nays being taken thereon and entered in full in their respective journals, section 147 of the Constitution of Kentucky be, and it is, amended by striking out of said section the following words: "But all elections by the people shall be by secret official ballot furnished by public authority to the voters at the polls, and then and there deposited. The first General Assembly held after the adoption of this Constitution shall pass all necessary laws to enforce this provision, and shall provide that persons illiterate, blind, or in any way disabled, may have their ballots marked as herein required," and by adding to said section these words: "And all elections by the people shall also be viva voce and made matter Viva voce.

of public record by the officers of election according to the direction of the voter," and also by adding these words: "The first General Assembly held after the adoption of this amendment shall pass all necessary laws to enforce this provision;" so that said section, when so amended, shall read as follows:

"§ 147. The General Assembly shall provide by law for the registration of all persons entitled to vote in cities and towns having a population of five thousand or more; and may provide by general law for the registration of other voters in the State. Where registration is required, only persons registered shall have the right to vote. The mode of registration shall be prescribed by the General Assembly. In all elections by persons in a representative capacity, the voting shall be viva voce and made a matter of record; and all elections by the people shall also be viva voce and made a matter of public record by the officers of election, according to the direction of the voter. The word 'elections' in this section includes the decision of questions submitted to the voters, as well as the choice of officers by them. The first General Assembly held after the adoption of this amendment shall pass all necessary laws to enforce this provision."

Submitted to voters.

§ 2. This amendment shall be submitted to the voters of the State for their ratification or rejection at the time and in the manner provided for under section 256 of the Constitution of Kentucky, and under the provisions of the act of May the 12th, 1897, being section 1459 of the compilation of laws known and designated as the Kentucky Statutes.

Became a lay June 14, 1904, by the terms of the Constitution acts proposing amendments to the Constitution do not require approval of the Governor.

CHAPTER 31.

AN ACT to amend section 1 of an act, entitled "An Act to authorize trustees of county seminary and school property, owned or held in trust by trustees by a majority of their board, to dispose of same to trustees of common school districts embracing same," approved March 17, 1896.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section 1 of the act mentioned in title of this act, be, and the same hereby, amended, and as amended it is enacted to read as follows:

"§ 1. That trustees holding the legal title to the property of any county seminary, under laws enacted and in force prior to the 18th day of December, A. D. 1865, by a majority of their board, the county court consenting thereto by order of the county judge, entered of record in the county court, are hereby authorized and empowered to sell, transfer and convey by deed the title held by such trustees to such county seminary property, or otherwise dispose of it as to them may seem best, to the trustees of white common school districts, whether graded or not, in which such seminary property is situated, on such terms and conditions as may be agreed upon by both parties: *Provided,* That whenever any such county seminary property shall be taken over by and vested in the trustees of a common school district, as authorized in this section, it, or the proceeds thereof, shall be used or disposed of by such trustees for the purpose of the school for white pupils in such districts, but all white pupils of other districts in the county, who shall be allowed such a reasonable reduction as shall make good to them their interest in such seminary property."

How board may sell and dispose of property.

Approved March 17, 1904.

CHAPTER 32.

AN ACT to amend and re-enact "An Act continuing the State Dental Association, and defining the duties of said association, and regulating the practice of dentistry in this State."

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Unlawful to practice dentistry or dental surgery without diploma.

§ 1. Chapter 85, article 3, of the Kentucky Statutes, same being chapter 189 of the acts of 1893, which was approved by the Governor May 1, 1893, be amended as follows:

That section 2636 of said act be amended as follows:

That the words "or a certificate of qualification issued by the Kentucky State Dental Association," be stricken from said section, and in lieu thereof there be inserted the following words: "And a certificate of qualification issued by the Kentucky State Board of Dental Examiners," so that said section, when amended, shall read as follows:

"§ 2636. It shall be unlawful for any person to hereafter commence the practice of dentistry or dental surgery for compensation, unless such person has received a diploma from the faculty of a dental college, duly authorized by the laws of this State, or some other of the United States, or a foreign country, and a certificate of qualification issued by the Kentucky State Board of Dental Examiners."

Duties and powers of Kentucky State Board of Dental Examiners.

§ 2. Strike out from said chapter 85, article 3, sections 2638, 2639 and 2641, which read as follows:

"§ 2638. There shall be elected by the association, according to its by-laws, a board of five examiners, each of whom shall be a member of the association, and shall have practiced dentistry for five years, and such other officers as may be deemed necessary, who shall continue

in office the length of time provided by the by laws. The Board of Examiners shall meet annually at the time of the meeting of the association, or oftener, at the call of any three of the members of the Board of Examiners, or upon the application of any one desiring to practice dentistry."

§ 2639. Three members of the Board shall constitute a quorum for the transaction of business, and shall charge and collect from each person who receives a certificate to commence the practice of dentistry a sum not exceeding five dollars, which may be applied to the payment of necessary expenses of the Board, and if there remains any balance it shall be paid into the treasury of the association and kept as a fund to aid in carrying out the provisions of this law."

"§ 2641. Any person hereafter desiring to commence the practice of dentistry or dental surgery shall, before he commences to practice, undergo a satisfactory examination before the Board of Examiners herein mentioned, or file for record with the Board of Examiners in a book kept for that purpose, his diploma, or a duly authenticated copy thereof. Upon the filing of such diploma, or standing a satisfactory examination, the Board shall issue to such person a certificate, duly signed by the members of the Board, or a majority thereof, which certificate, when registered as hereinafter provided, shall entitle the person to whom it is granted the right to practice dentistry or dental surgery in this State. All persons hereafter receiving such certificates, before being qualified to practice dentistry or dental surgery in this State, shall have the same registered in the office of the clerk of the county in which they reside; and all persons now holding certificates of qualification from said dental association, shall within one year after the passage of this law, have the same registered in the

office of the clerk of the county in which they reside. It shall be the duty of such clerks, upon the receipt of such certificate and a fee of fifty cents, to register the same in a book kept in the office for the registration of physicians. Nothing herein contained shall be construed to require any person who now holds a certificate from the Kentucky State Dental Association to pass an additional examination or obtain a new certificate."

And substitute in lieu thereof the following sections, viz:

§ 2638. A board of examiners, to be known as the Kentucky State Board of Dental Examiners, is hereby created, the members constituting said Board to be appointed by the Governor, the said Board to consist of five members, each of whose term of office shall be five years. The members composing the present Board shall continue in office the remainder of their respective terms, after which, any vacancy in the said Board shall be filled by appointment of the Governor from a list of two names to be recommended by the Kentucky State Dental Association at its annual meeting. No one shall be a member of said Board who shall not have practiced dentistry in this State for at least five years preceding his appointment, and no person shall be a member of said Board who is in any way connected with a dental college."

"§ 2639. The said State Board of Examiners shall meet on the first Tuesday in June and the first Tuesday in December of each year, or oftener, at the call of the president, for the examination of applicants who desire to practice dentistry, and for the transaction of any other business that may come before the Board. They shall, at their first meeting, organize by electing one of their members president and one secretary and one treasurer. Three members of said Board shall con-

titute a quorum for the transaction of business, and hall charge and collect from each person applying for xamination a fee of twenty dollars, which is n no case returnable; *Provided*, Any person failing o pass a satisfactory examination shall be entitled to ne re-examination within one year without extra harge, but for each subsequent examination a fee of ive dollars shall be charged. The said ees shall be applied to the necessary expenses of he Board, and if there is any balance it shall be held y the secretary of the Board, to be kept as a fund to id in carrying out the provisions of this law. The ecretary of said Board shall make an annual report f its proceedings, with account of all moneys received nd disbursed by the said Board, to the Governor on he last Tuesday in December of each year.

"§ 2641. Any person hereafter desiring to commence the practice of dentistry or dental surgery in this Commonwealth shall, before he commences to practice, undergo a satisfactory examination before the Kentucky State Board of Dental Examiners. The said Board shall register the name and address of any and all persons passing a satisfactory examination, in a book kept for that purpose, and shall issue to such person a certificate of registration signed by the members of the Board or a majority thereof, and bearing the seal thereof, which certificate, when registered as hereinafter provided, shall entitle the person to whom it is granted the right and privilege to practice dentistry or dental surgery in this State. All persons hereafter receiving such certificate of qualification to practice dentistry or dental surgery in this State shall have same recorded in the office of the clerk of the county or counties in which he shall practice, and it shall be the duty of such clerk, upon the presentation of said certificate and a

fee of fifty cents, to register the same in a book kept in the office for the registration of physicians. Nothing in this act shall be construed to prevent students operating in the clinic of a regular chartered dental college under the direct supervision of the demonstrators thereof, or to require any person who now holds a certificate from the Kentucky State Dental Association, to pass an additional examination or obtain a new certificate. All matriculates now attending all dental colleges in Kentucky be, and they are, exempt from any and all the provisions of the act, so far as it refers to the examination of persons by the State Board of Dental Examiners, who wish to begin the practice of dental surgery in the Commonwealth of Kentucky."

So that chapter 85, article 3, when thus amended, shall read as follows:

"§ 2636. It shall be unlawful for any person to hereafter commence the practice of dentistry or dental surgery for compensation unless such person has received a diploma from the faculty of a dental college duly authorized by the laws of this State, or some other of the United States, or a foreign country, and a certificate of qualification issued by the Kentucky State Board of Dental Examiners.

"§ 2637. The Kentucky State Dental Association is continued under its present organization, and shall have power to adopt such by-laws for its government as are not inconsistent with law, and may prescribe terms of qualification for the admission of members.

"§ 2638. A board of examiners to be known as the Kentucky State Board of Dental Examiners, is hereby created, the members constituting said Board to be appointed by the Governor, the said Board to consist of five members, each of whose term of office shall be five years. The members composing the present Board

shall continue in office the remainder of their respective terms, after which, any vacancy in the said Board shall be filled by appointment of the Governor from a list of two names to be recommended by the Kentucky State Dental Association at its annual meeting. No one shall be a member of said Board who shall not have practiced dentistry in this State for at least five years preceding his appointment, and no person shall be a member of said Board who is in any way connected with a dental college.

"§ 2639. The said State Board of Examiners shall meet on the first Tuesday in June and on the first Tuesday in December of each year, or oftener, at the call of the president, for the examination of applicants who desire to practice dentistry, and for the transaction of any other business that may come before the Board. They shall, at their first meeting, organize by electing one of their members president and one secretary and one treasurer. Three members of said Board shall constitute a quorum for the transaction of business, and shall charge and collect from each person applying for examination a fee of twenty dollars, which is in no case returnable: *Provided*, That any person failing to pass a satisfactory examination shall be entitled to one re-examination within one year without extra charge, but for each subsequent examination a fee of five dollars shall be charged. The said fees shall be applied to the necessary expenses of the Board, and if there is any balance, it shall be held by the secretary of the Board to be kept as a fund to aid in carrying out the provisions of this law. The secretary of said Board shall make an annual report of its proceedings, with account of all moneys received and disbursed by the said Board, to the Governor on the last Tuesday in December of each year.

"§ 2640. The Board of Examiners shall receive such compensation for their services as the by-laws of the association may provide, and shall keep a record in which shall be registered the name and residence or place of business of all persons authorized under this law to practice dentistry or dental surgery in this State."

§ 2641. Any person hereafter desiring to commence the practice of dentistry or dental surgery in this Commonwealth shall, before he commences to practice, undergo a satisfactory examination before the Kentucky State Board of Dental Examiners. The said Board shall register the name and addresses of any and all persons passing a satisfactory examination, in a book kept for that purpose, and shall issue to such persons a certificate of registration signed by members of the Board, or a majority thereof, and bearing the seal thereof, which certificate, when registered as hereinafter provided, shall entitle the person to whom it is granted the right and privilege to practice dentistry or dental surgery in this State. All persons hereafter receiving such certificate of qualification to practice dentistry or dental surgery in this State shall have same recorded in the office of the clerk of the county or counties in which he shall practice, and it shall be the duty of such clerk, upon presentation of said certificate and a fee of fifty cents, to register same in a book kept in the office for the registration of physicians. Nothing in this act shall be construed to prevent students operating in the clinic of a regular chartered dental college under the direct supervision of the demonstrators thereof, or to require any person who now holds a certificate from the Kentucky State Dental Association, to pass an additional examination or obtain a new certificate. All matriculates now attending all dental colleges

in Kentucky be, and they are exempt from any and all the provisions of this act, so far as it refers to the examination of persons, by the State Board of Dental Examiners who wish to begin the practice of Dental Surgery in the Commonwealth of Kentucky.

§ 2642. Any person failing to comply with, or who shall, in violation of any of the provisions of this law, practice dentistry or dental surgery in this State, for fee or reward, shall, for each offense, be guilty of a misdemeanor, and fined not less than fifty dollars nor more than two hundred dollars for each offense.

"§ 2643. Nothing in this law shall be construed to prevent physicians or surgeons from extracting teeth."

Approved March 17, 1904.

CHAPTER 33.

AN ACT to amend the revenue laws of cities of the first class so as to carry into effect the amendment of section 181 of the present Constitution.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Personal property of every kind for municipal purposes, taxed on income, licenses or franchises, instead of an ad valorem tax.

§ 1. That section 195 of chapter 244 of session acts of 1891, 1892 and 1893, approved July 1, 1893, and being section 2980 of the Kentucky Statutes, be, and the same is hereby repealed, and the following substituted, so that said section, as amended and hereby reenacted, shall read as follows:

"§ 195. (2980). Each city shall raise a revenue from *ad valorem* taxes, and from a tax based on income, licenses and franchises, and to that end the General Council of each city is hereby authorized and empowered to provide each year, by ordinance, for the assess-

ment of all real and personal estate within the corporate limits thereof, subject to taxation for State purposes, and may levy an *ad valorem* tax on the same not exceeding the rate and limits prescribed in the Constitution; and for school purposes, not exceeding fifty cents on each one hundred dollars of taxable property therein; and may impose license fees on stock used for breeding purposes, and on franchises, trades, occupations and professions; and may provide for taxation, for municipal purposes, on personal property, tangible and intangible, based on income, licenses or franchises in lieu of an *ad valorem* tax thereon: *Provided,* such general council shall not be authorized to omit the imposition of an *ad valorem* tax on such property of any steam railroad, street railway, ferry, bridge, gas, water, heating, telephone, telegraph, electric light or electric power company.

"Said council shall provide for the collection of all taxes imposed hereunder.

"All taxes and license fees shall be levied or imposed by ordinance, and the purpose or purposes for which the same are levied or imposed shall be specified therein, and the revenue therefrom shall be expended for no other purposes than that for which it was collected.

"All *ad valorem* taxes shall be collected by the tax receiver, and all license taxes, including all taxes on personal property, tangible and intangible, based on income licenses and franchises, in lieu of an *ad valorem* tax thereon, shall be collected by the Secretary and Treasurer of the Commissioners of the Sinking Fund: *Provided,* That all taxes so collected by said Secretary and Treasurer in lieu of *ad valorem* taxes on personalty shall be paid by him monthly to the city Treasurer, who shall receipt to him therefor, and the said Secretary and Treasurer shall furnish monthly to the city Comptroller

a statement showing what persons, firms or corporations have, during the previous month, paid such taxes, the amount paid by each, and the total amount paid by him to the city Treasurer.

"Nothing in this section shall be so construed as to deprive the General Council of the power hereby granted to it to provide by ordinance in its discretion for the levy and collection of taxes based on income, license and franchises in addition to *ad valorem* taxes on the property of any of the corporations whose franchise is subject to assessment by the City Assessor as set out in section three of this act, which is section one of section 2984A, Kentucky Statutes, as amended by this act, and the General Council shall have power to levy *ad valorem* taxes on the property and franchises of railroads as assessed and apportioned by the Railroad Commission and the State Board of Valuation and Assessment:" *Provided*, That no corporation, individual, firm or association, which pays an *ad valorem* tax and a franchise tax shall also be required to pay a license tax."

Licenses required of different professions and business avocations.

§ 2. That section 225 of chapter 244 of Session Acts of 1891, 1892 and 1893, approved July 1, 1893, as amended by an act approved March 22, 1902, entitled, "An act to amend an act," entitled "An act for the government of cities of the first class," approved July 1, 1893, relating to the sinking fund of cities of the first class, and being section 3011 of the Kentucky Statutes, be and the same is hereby repealed, and the following is substituted, so that said sections, as amended and hereby re-enacted, shall read as follows:

§ 225 (3011). The General Council shall, by ordinance, provide for the following licenses to be paid into the Sinking Fund, with adequate penalties for doing business, for following the calling, occupation, profes-

sion, or using, or holding or exhibiting the articles herein named, without the required license:

For each hawker, huckster or peddler, not less than twenty dollars nor more than one hundred dollars per annum. For each attorney or counsellor-at-law, physician or surgeon, not less than ten dollars nor more than one hundred dollars per annum. Should any of the foregoing parties be associated in a firm, each member of the firm shall pay a separate license tax. For any theatrical exhibition, museum, street musician, street musical bands, cyclorama, panorama, street exhibitions, exhibitions, lectures and concerts at other than regular places of amusement, public dance house, public ball room, concert, concert hall, lecture, lecture hall, shows, circus, flying dutchman, merry-go-round, menagerie, ball, dance, entertainment or performance in the city for pay, not less than five (5) dollars nor more than two hundred and fifty (250) dollars per day, as the General Council shall by ordinance prescribe; but a yearly license may be granted to a theatre, museum, public dance house, public ball room, concert hall, lecture hall, or any place where public entertainments are held or given, at not less than two hundred (200) dollars nor more than five hundred (500) dollars per annum.

For each dancing school or academy, not less than twenty-five dollars nor more than fifty dollars per annum.

For each billiard table, pool table, bowling alley or shooting gallery, not kept exclusively for family use, not less than twenty-five dollars nor more than one hundred dollars per annum.

For each real estate office or agency, house agent, loan broker, intelligence office, claim agent, mercantile agent, collecting agent or agency, employment agency or information bureau, commercial agent, stock and

bond broker, merchandise broker, street broker, exchange broker, financial agent, promoter, claim broker, not less than twenty-five dollars nor more than five hundred dollars per annum.

For each rendering or tanking house, not less than two hundred dollars nor more than five thousand dollars.

For each dealer in live stock, or butcher, not less than twenty-five dollars nor more than one thousand dollars per annum.

For each pawnbroker, not less than three hundred dollars nor more than five hundred dollars per annum.

For each insurance adjuster not regularly employed by a licensed insurance company in said city, not less than one hundred dollars nor more than five hundred dollars per annum.

For each veterinary surgeon or veterinary dentist or chiropodist, not less than ten dollars nor more than one hundred dollars per annum.

For each laundry office, other than the laundry itself, branch laundry office, or laundry agent or agency, book agent, soliciting agent, bill poster, master builder, contractor, advertising agent or scavenger, not less than ten dollars nor more than five hundred dollars per annum.

For each restaurant or eating house, not less than ten dollars nor more than one hundred dollars per annum.

For each auctioneer, not less than twenty-five dollars nor more than five hundred dollars per annum.

For each tobacco dealer or broker, or tobacco inspector, not less than twenty-five dollars nor more than one thousand dollars per annum.

For each photographer, bath house, skating rink or

park, roller skating rink, swimming pool, commercial shipping agent, not less than ten dollars nor more than three hundred dollars per annum.

For keeping, owning or harboring a dog or bitch not less than two dollars per annum.

For each junk merchant, junk dealer, second-hand dealer in household merchandise, not less than fifty (50) dollars nor more than two hundred (200) dollars per annum.

How stock of every corporation valued and assessed.

§ 3. That section one of chapter 38 of Session Acts of 1898, as amended by section one of chapter 38 of Session Acts of 1900, by act of March 13, 1900, and being section one of section 2984A, Kentucky Statutes, be repealed so far as applicable to cities of the first class, and in lieu thereof the following substituted, so that said section 1 (2984A), as amended and hereby re-enacted, shall, as applicable to cities of the first class, read as follows:

"That the shares of stock of every incorporated bank, trust company, guarantee or security company, and the franchise of every incorporated gas, water, ferry, bridge, street railway, express, electric light, electric power, telegraph, press dispatch, telephone, turnpike, palace car, dining car, sleeping car and chair car company, and every other like company, corporation or association, having or exercising any special or exclusive privilege or franchise not allowed by law to natural persons, or performing any public service, shall hereafter be valued or assessed for city taxes in the manner hereinafter described, by the City Assessor in the cities of the first class, wherein such franchise is exercised, to the extent and in the proportion the same is therein exercised: *Provided, however,* That no assessment for city taxes shall be made by any assessor or Board of Valuation and Assessment of the

franchise of any private business, mercantile or manufacturing corporation, whose property is not devoted to public use, nor upon the shares of stock of any incorporated bank, trust company, guarantee or security company paying an *ad valorem* tax on its real estate and a license tax in lieu of an *ad valorem* tax on its personal estate."

§ 4. That the revenue derived from taxes based on income, licenses and franchises in lieu of an *ad valorem* tax, shall be paid at such time in the fiscal year, and apportioned and distributed, as may be fixed by ordinance of the General Council, for the same purposes as the revenue derived from the *ad valorem* tax. In default of the payment of such license taxes at the time fixed by ordinance, a penalty of five per cent. shall be added thereto and interest on the amount of such license taxes shall be computed and paid by the delinquent from that date at the rate of six per cent. per annum until paid.

Ordinance to fix time of payment. Lien exists for such taxes.

A lien prior and superior to all others, except State taxes, whether acquired before or after the maturity of such license taxes, shall exist in favor of the city from and after the date such license taxes become due and payable, for the amount thereof, and such penalty and interest, upon all the property, real and personal, of such delinquent, which lien shall be enforcible, by suit in the name of the city in the circuit court, and in such suit a personal judgment may also be obtained against such delinquent for the amount of such license tax, penalty, interest and costs of suit.

§ 5. That all laws and parts of laws in conflict with this act, be and the same are hereby repealed.

Approved March 18 1904.

CHAPTER 34.

AN ACT to amend an act, entitled "An Act to protect the citizens of this Commonwealth from empiricism," approved April 10, 1893, and acts amendatory thereto, being article 1, chapter 85, of the Kentucky Statutes, and to amend section 2047, chapter 63, of the Kentucky Statutes, creating a State Board of Health, approved April 20, 1893, and regulating the practice of medicine, surgery and osteopathy in this Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section 3 of an act entitled, "An act to protect citizens of this Commonwealth from empiricism," approved April 10, 1893, and acts amendatory thereto, being section 2613, article 1, chapter 85, of the Kentucky Statutes, be stricken out and repealed, and in lieu thereof the following section be enacted:

Authority to practice medicine, a certificate from State Board of Health.

§ 1. Authority to practice medicine under this act shall be a certificate from the State Board of Health, registered in the county in which the holder resides; and said Board shall issue a certificate to any reputable physician who desires to practice medicine in this State, who has passed a satisfactory examination before it, in the branches of medicine as taught in reputable medical colleges; and said Board shall, upon application, admit to examination any person of good moral character, who may possess any of the following qualifications:

1. A diploma from a reputable medical college legally chartered under the laws of this State.

2. A diploma from a reputable and legally chartered medical college of some other State in this Union.

3. Satisfactory evidence from the person claiming the same that such person was reputably and honor-

ably engaged in the practice of medicine in this State prior to February 23, 1884.

Applicants may present their credentials by mail or proxy, and shall receive due notice of the place and date of examination.

Certificates shall be signed by the president and secretary, and attested by the seal of the Board, and the fee for each examination, including the certificate, shall not exceed the sum of ten dollars. The members of the Board shall be entitled to receive ten dollars per day and their necessary traveling expenses for each day devoted to such examinations, to be paid from the fees provided herein, and the Board shall have authority to provide for such assistants as it may deem necessary, and pay for the same from the fund arising from such fees."

Examination semi-annually at Louisville, Frankfort, Lexington, etc. How conducted.

§ 2. Examinations shall be held at least semi-annually, at Frankfort, Louisville, Lexington or other centrally located places, and on such days as the Board may deem will best suit the convenience of applicants.

The questions for all examinations in the branches common to all schools or systems of practice shall be prepared by a committee of the Board to consist of five members, one of which shall be a homeopath, one an eclectic and one an osteopath, and said committee shall conduct all examinations and grade the same, and when any applicant has made the average prescribed by law and is so graded the Board of Health shall admit such applicant to the practice of his or her profession in this State. All examinations shall be conducted in writing and in such manner that the result shall be entirely fair and impartial, the applicants being known by numbers, so that no member of the Board shall be able to identify the papers of any applicant until they have been graded and the case passed upon and all

questions and answers with the grade attached shall be preserved for one year.

All applicants examined at any one time shall have the same questions asked them in anatomy, physiology, obstetrics and the other branches common to all systems of practice and shall be required to make an average grade of 70, with a minimum of 60 in any one branch; but all examinations, involving methods or principles of treatment shall be made and graded by that member of the board who represents, or most nearly represents the school or system of practice to which the applicant belongs, or the board may in its discretion, omit the examination in such branches. No member of the board shall be a stockholder or member of the faculty or board of trustees of any medical college.

State Board of Health may refuse to issue certificate.

§ 3. That section 5 of said act, to which this is an amendment, being section 2615 of the Kentucky Statutes, be stricken out and repealed, and in lieu thereof the following section is enacted. "Section 3." The State Board of Health may refuse to issue the certificate, provided for in this act for any of the following causes:

1. The presentation to the board of any license, certificate or diploma which was illegally or fraudulently obtained, or the practice of frauds or deception in passing examination.

2. The commission of a criminal abortion, or conviction of a felony involving moral turpitude.

3. Chronic or persistent inebriety or addiction to a drug habit to an extent which disqualifies the applicant to practice with safety to the people.

4. Or other grossly unprofessional or dishonorable conduct of a character likely to deceive or defraud the public.

The board may suspend or revoke a certificate for

any of the causes for which it may refuse to grant a license under the provisions of this act.

In all proceedings for suspension or revocation under this act, the holder of the certificate shall be furnished with a copy of the complaint and shall be given at least thirty days thereafter to prepare for a hearing; and he shall be heard in person or by counsel, or both as he may elect, and in such hearing and in all matters arising in the course of their duties the president and secretary shall have authority to administer oaths, and in such hearing the board may take oral or written proof for and against the complaint, as it may deem will best present the facts. In all cases of refusal, suspension, or revocation, the applicant or holder may appeal to the Governor, who may affirm or overrule the decision of the board. Upon the suspension or revocation of any certificate it shall be the duty of the board to give official notice of such action under seal to the county clerk of the county in which the holder is registered, and such name shall be marked as suspended for the period indicated, or stricken from the register in accordance with such notice, and if such holder shall continue to practice he shall thereupon be subect to the penalties provided in the law to which this is an amendment.

The holder of a diploma from a reputable osteopathic college entitled to certificate.

§ 4. Any person engaged in the practice of osteopathy in this State prior to February 1, 1904, who holds a diploma from a reputable osteopathic college having a course of not less than four terms of five months each, legally chartered under the laws of any State in this Union, as determined by the osteopathic member of the board and who makes application to the State Board of Health within ninety days after the passage of this act, accompanied by the fee hereinbefore provided shall receive a certificate from the board without an examination, which when registered in the office of the

county clerk of the county of his residence as required of other certificates issued by the board shall authorize the holder thereof to practice osteopathy in this Commonwealth, but it shall not permit him to administer drugs, nor to perform surgical operations with the knife. The words "practice of medicine" in this act shall be held to include the practice of osteopathy.

But no person shall be permitted to practice osteopathy in this Commonwealth without an osteopahic diploma and certificate as provided in this section.

"Practice of Medicine" construed.

§ 5. Any other person applying for authority to treat the sick or injured or in any way discharge the duties usually performed by physicians whether by medical, surgical or mechanical means shall apply to the State Board of Health, who shall examine them as to their competency in such manner as they may deem fair and best, but such examination shall always include anatomy, physiology, and pathology, and the term "practice of medicine" as used in this act shall be construed to be the treatment of any human ailment, or infirmity by any method; but this shall not include trained or other nurses, or persons selling proprietary or patent medicines when not traveling as a troupe or troupes composed of two or more persons. But this act shall not apply to the practice of Christian Science.

Itinerant medical companies to pay license of $100.

§ 6. That any itinerant medical company of two or more persons, traveling as a troupe or company as vendors of any drug, nostrum, or instrument of any kind, intended for the treatment, of any disease or injury, or who shall by any writing or printing profess to the public to treat disease or deformity by the use of any drug, nostrum or instrument shall pay to the board a license of one hundred dollars per month which shall be at once covered into the State Treasury. The board shall issue a license to reputable and worthy applicants under this

section upon payment of the fee each month, but may for sufficient cause refuse such license. Any such itinerant vendor traveling as a company or troupe with two or more persons as members or in its employ who shall treat or profess to treat or cure disease or injuries by the use of any drug, nostrum, or instrument without license to do so, or shall sell the same for such purpose in violation of this section shall upon conviction, each and every person so engaged be fined fifty dollars for the first offense, and upon each subsequent conviction shall be fined one hundred dollars.

State Board of Health. Qualification and duties.

§ 7. That section 2047, chapter 63, Kentucky Statutes, be stricken out and repealed, and lieu thereof the following section be enacted:

A board to be known as the State Board of Health is hereby established. It shall consist of eight members, all of whom shall be legally qualified practitioners under this act seven of whom shall be appointed by the Governor, by and with the advice and consent of the Senate, and the eighth member, who shall be the secretary and executive officer, shall be elected by the board and by virtue of his office of secretary shall be a member of the board. One member of the board shall be a homeopathic, one an eclectic and one an osteopathic physician, and the other appointive members shall be regular or allopathic physicians, all to be appointed by the Governor from lists of three names for each vacancy, furnished respectively by the State society or association of such schools or systems of practice as are entitled to the member, and the successors of such members shall be appointed in the same manner. If the board shall elect one of its members secretary, as it may do, the Governor shall appoint another member to complete the full number of the board. The president and secretary shall have authority to administer oaths

for the purposes of this act and the members of the board shall before entering upon the discharge of their duties take the oath prescribed by the Constitution for State officers.

Certificates heretofore issued valid and continued in force.

§ 8. This act shall take effect and be in force in accordance with the provisions of the Constitution, but it is expressly provided that all certificates issued by the board under the provisions of the law to which this is an amendment are hereby confirmed and continued in force, and all students who were matriculated in any reputable medical or osteopathic college in this Commonwealth on or before February 1, 1904, and shall have graduated prior to September 1, 1907, and make application to the board prior to January 1, 1908, shall receive certificates without examination. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 18, 1904.

CHAPTER 35.

AN ACT to amend an act, entitled "An Act creating a State Board of Health, regulating the appointment of county boards, and prescribing their duties and compensation," which was approved by the Governor on the 20th day of April, 1893.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Qualifications and duties of County Board of Health.

§ 1. That an act to amend an act, entitled "An act creating a State Board of Health, regulating the appointment of County Boards, and prescribing their duties and compensation," which was approved on the twentieth day of April, 1893, be amended by repealing that portion of said act designated in Kentucky Statutes (Carroll Edition) as section 2055, and all laws

in conflict with this act, and enacting the following instead:

"It shall be the duty of the State Board of Health to appoint three intelligent and discreet licensed and practicing physicians residing in each county of this State who, together with the county judge and one person elected by the fiscal court of each county, shall constitute a local board of health for the respective counties in which they reside and such persons as members of the local board shall hold their office for a term of two years from the date of their appointment or election, and until their successors are appointed or elected, and such local boards are empowered and it shall be their duty to inaugurate and execute and to require the heads of families and other persons to execute such sanitary regulations as the local board may consider expedient to prevent the outbreak and spread of cholera, smallpox, yellow fever, scarlet fever, diphtheria and other epidemic and communicable diseases, and to this end may bring the infected population under prompt and proper treatment during premonitory or other stages of the disease and they are empowered to go upon and inspect any premises which they may believe are in an unclean or infectious condition, and it shall be empowered to fix and determine the location of an eruptive hospital for the county, sufficiently remote from human habitation and public highways as in its judgment is safe, and said boards are authorized and shall have power to enforce the rules and regulations adopted by the State Board of Health, and any person who shall fail or refuse, after written notice from the local board or State board, to observe or obey the written request shall be fined not less than ten nor more than one hundred dollars for each day he so fails or neglects, and it shall be the duty of physicians practicing their professions in any county in

which a local board is organized to report all or any of the above mentioned diseases under their special treatment, to such local board, and it shall likewise be the duty of heads of families, to report any of said diseases when known by them to exist in their respective families, to such local board, or to some member thereof within twenty-four hours from his or her knowledge of the existence of such disease, and such local board shall make report to the State Board of Health, at least once in every three months—first, of the character of the infectious, epidemic and communicable diseases prevailing in their county; second, the number reported as afflicted with such disease; third, the action taken by such board in arresting the progress of such epidemics, and the visible effects of such action, and shall also make special reports when they deem it expedient or when required by the State Board, and the local board shall receive no compensation for such services. The local board shall appoint a competent practicing physician who shall be the health officer of the county and secretary of the board, whose duties shall be to see that the rules and regulations provided for in this act, and the rules and regulations of the State Board of Health are enforced, and who shall hold his office at the pleasure of said board, and he shall receive a salary, the amount of which to be fixed by the fiscal court at the time, or immediately after his election. In no state of case shall said health officer claim or receive from the county any compensation for his services other than the salary fixed by the fiscal court.

§ 2. All laws and parts of laws in conflict with this act are hereby repealed.

Approved March 18, 1904.

CHAPTER 36.

AN ACT to provide for the establishing of graded schools in common school districts bordering on county lines.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Graded schools established in common school districts.

That it shall be the duty of the county judge in each county of this Commonwealth, upon a written petition signed by at least ten legal voters who are taxpayers in the school districts of his county, and who desire to unite with school districts of an adjacent county, for the purpose of establishing a graded school, to make an order on the order book at the next regular term of his court after he receives said petition, fixing the boundary of any proposed graded common school district, as agreed on by the county judges and petitioners of the counties, out of which said school district is to be joined, and directing the sheriff or other officer of each county, whose duty it may be to hold the election, to open a poll in said proposed graded common school district, on some day fixed by said judges in said order, for the purpose of taking the sense of the legal white voters in said proposed graded common school district upon the proposition whether or not they will vote an annual tax, in any sum named in said order, not exceeding fifty cents on each one hundred dollars of property assessed in said proposed graded common school district, belonging to said white voters or corporations, or a poll tax in any sum named in said order, not exceeding one dollar and fifty cents per capita on each white male inhabitant over twenty-one years of age residing in said proposed graded common school district, or both an *ad valorem* and a poll tax, if so stated in the order, for the purpose of maintaining a graded common school in said proposed

graded common school district, and for erecting, purchasing or repairing suitable buildings therefor, if necessary: Provided, The proposition to establish any graded common school district and school as provided for in this section, is approved in writing on the petition to the county judges of each county represented by a majority of the trustees of any common school district, included wholly or partly within that portion of the said proposed graded common school district, which is included in his county, and approved in writing on said petition by the county superintendent of common schools in each county; that no point on the boundary of any proposed graded common school district be more than two and one half miles from the site of its proposed school house, and that the location and site of said school house in said district are set out with exactness in said petition to the county judges of the counties concerned. If, at any time, two years having intervened since such graded common school district was established, it becomes desirable to change the boundary of same, it shall be the duty of the county judges concerned, upon a written petition signed by the person or persons desiring to be changed, who are, under this law, legal voters in the school district or districts in which they reside, and who at the same time own the real estate sought to be transferred, to make an order on their respective order books at the next regular term of their court after receiving said petition fixing the new boundary of the said graded or common school district, as agreed on by the county judges and the petitioners. Such petition, to be valid, shall set out in full the new boundary of said district, which shall be recorded as in case of the original boundary, and a copy of same shall be furnished the Board of Education of said graded common school district, but no such change shall

e made unless said petition be approved in writing by majority of the Board of Education of each district oncerned, as well as by the county superintendents.

If it shall appear that a majority of the votes cast t the said election were in favor of said tax, then it hall be the duty of the county judge, representing the argest division of said district, to cause the certificate f the Examining Board, showing the amount of tax oted, and the names of the six trustees elected, to be ntered of record in the order book of his court, and o give a copy thereof to the county superintendent, who, in connection with the trustees, shall organize a raded common school in said district in accordance with the provisions of this law. The district so established shall belong to the county in which the largest division lies, and all laws now in force for the governing of graded common schools, and not in conflict with the above shall apply to graded common school districts established under this act.

Approved March 18, 1904.

CHAPTER 37.

AN ACT relating to graded common schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That hereafter the board of trustees of a graded common school shall consist of five members: Provided, That the present members of any board may serve until the expiration of their respective terms. Board shall consist of five members.

§ 2. At the next regular election of trustees, and thereafter every third year, there shall be elected but one member of said board; except that vacancies occur- One member elected every 3 years.

ring in said board may be filled at any regular election for trustees.

§ 3. Whereas, The next regular election for trustees of graded common schools occurs on the first Saturday in May, an emergency is declared to exist, and this act shall take effect from and after its passage and approval.

Approved March 18, 1904.

CHAPTER 38.

AN ACT to amend and re-enact an act, entitled "An Act to protect game and small birds."

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That an act, entitled An act to protect game and small birds, which became a law February 27, 1894, being chapter 28, session acts 1894, and being chapter 57 Kentucky Statutes, be amended by adding at the end of section 16 of said act, the following:

Unlawful to kill rabbits or squirrels between Sep. 15th and Nov. 15.

§ 17. No person shall kill or pursue with such intent, or have in his possession when so killed any rabbit, or squirrel between the fifteenth day of September and the fifteenth day of November in each year. Provided, any one may catch rabbits with dogs, or in snares.

Approved March 18, 1904.

CHAPTER 39.

AN ACT concerning the closing of public offices in this Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That it shall be lawful for the public offices in this Commonwealth, to be closed at one o'clock p. m., Saturday, throughout the whole or any part of the year.

Public offices closed after one o'clock on Saturdays.

§ 2. The provisions of this act shall not apply to counties having a population less than one hundred and fifty thousand.

Approved March 18, 1904.

CHAPTER 40.

AN ACT to amend and re-enact section 4,111 of the Kentucky Statutes, Carroll's edition, 1903.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section 4111 of the Kentucky Statutes, Carroll's edition, 1903, be, and the same is hereby amended by adding to said section, at the end thereof, immediately following the word "same," the following to-wit:

When and how taxes must be paid Sec. 4111 of Ky. Stat. amended.

"Such report herein required to be made to the Auditor of Public Accounts, shall in each instance be accompanied by a remittance and payment of the taxes due upon such spirits, which said taxes shall be by the auditor turned into the State Treasury; and such report herein required to be made to the clerk of the county court,

shall in each instance be accompanied by a remittance and payment of the taxes due the county upon such spirits, which said taxes shall be by said clerk turned into the County Treasurer, or paid out to such person or persons, as the fiscal court may by order direct.

So that said section when amended and re-enacted will read as follows, viz:

"§ 4111. Every owner or proprietor of a bonded warehouse in which distilled spirits may be stored as contemplated in the preceding section, shall, on the first day of January, May and September next after said government tax shall have been paid, become due, or be removed from the warehouse, make and transmit to the Auditor of Public Accounts and the clerk of the county court in which the spirits may have been at the time of the assessment a statement, sworn to by the person whose duty it is to make the report, showing the quantity of spirits on which the government tax has been paid or has become due, and what spirits have been removed from the warehouse during the preceding four months, the years in which such spirits were assessed for taxation, and the county, city, town or taxing district in which the warehouse is situated in which the spirits were stored at the time of the assessment, and shall, at the same time, pay all taxes and interest on such spirits due the State, county, taxing district city or town to the officer entitled to receive the same. Such report herein required to be made to the Auditor of Public Accounts, shall in each instance be accompanied by a remittance and payment of the taxes due upon such spirits, which said taxes shall be by the auditor turned into the State Treasury; and such report herein required to be made to the clerk of the county court shall in each instance be accompanied by a remittance and payment of the taxes due the county upon

such spirits, which said taxes shall be by the said clerk turned into the County Treasury, or paid out to such person or persons, as the fiscal court may by order direct."

§ 2. The law hereby amended being ambiguous and of doubtful purport as to what officials are now entitled to receive State and county taxes due from owners and proprietors of bonded warehouses, and such taxes falling due and being payable in the months of January, May and September of each year, an emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval by the Governor.

Approved March 18, 1904.

CHAPTER 41.

AN ACT relating to the assessment of railway bridges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Railroad bridges spanning a river which is a boundary line of this State assessed by railroad commissionerss

§ 1. That the tangible property of all railroad bridge companies owning or operating a bridge spanning a river constituting the boundary of this State shall be valued and assessed for taxation for all purposes by the railroad commission instead of by the local assessors; and the franchise of said bridge companies shall be assessed for all purposes by the State Board of Valuation and Assessment; and said assessments shall be reported to the Auditor of Public Accounts who shall certify the same to the county clerk of the county wherein the bridge is located in the same manner and the tax shall be collected in all respects as now provided by law for railroad property, and after the assessment

has been certified to the county court clerk his duties and the duties of the sheriff and the collector of city taxes and other local tax collectors shall be the same as now provided by law with reference to railroad property.

§ 2. This law shall not be construed as otherwise changing the present mode of taxing bridge property.

All acts and parts of acts in conflict with this act are hereby repealed.

Approved March 19, 1904.

CHAPTER 42.

AN ACT to change the corporate name of the State school for the education of the deaf children of Kentucky from the "Kentucky Institution for the Education of Deaf Mutes" to the "Kentucky School for the Deaf."

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Name "Kentucky Institution for the Education of Deaf Mutes" changed to "Kentucky School for the Deaf."

§ 1. That the corporate name of the school for the education of deaf children residing within the bounds of the Commonwealth, located at Danville, Boyle county, Kentucky, and owned, supported and maintained by the Commonwealth, be, and is hereby, changed from "The Kentucky Institution for the Education of Deaf Mutes" to "The Kentucky School for the Deaf."

All property vested in school under its new name.

§ 2. *And be it further enacted*, That all rights, privileges, immunities, possessions, claims and property of any and every character whatever, now vested in the said "The Kentucky Institution for the Education of Deaf Mutes," shall, and do, vest in the school under its new corporate name, "The Kentucky School for the

Deaf," and that the said "The Kentucky School for the Deaf" shall be, and is, liable for all debts, obligations, outstanding contracts, and claims of any and every character whatever that now lawfully attach to the said "The Kentucky Institution for the Education of Deaf Mutes."

Laws in force apply and are confirmed in the "Kentucky School for the Deaf."

§ 3. And that all Legislative Acts now in force, affecting the management, control and financial support of the said "The Kentucky Institution for the Education of Deaf Mutes," and any act or acts, and any provision or provisions under which it receives appropriations shall and do apply and are hereby confirmed and continued to "The Kentucky School for the Deaf;" and any existing act or acts in conflict herewith are hereby declared inoperative in so far as the said act or acts do conflict with the provisions set forth in this bill.

Approved March 19, 1904.

CHAPTER 43.

AN ACT to provide for more adequate punishment for bank robbery and safe blowing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Punishment for bank robbery or safe-blowing.

§ 1. That any person or persons who shall by force or violence, steal, take or carry away or attempt by such means to steal, take or carry away from any bank, money, notes, securities or any other thing of value or who shall, by means of explosives or any other force, unlawfully open or attempt to open, any safe belonging to or used by any person, firm, bank, or corporation or company in which is kept money, notes, securities, books or any other thing of value, shall be guilty of a felony; and upon conviction thereof be confined in the penitentiary, not less than two nor more than twenty years.

Approved March 19, 1904.

CHAPTER 44.

AN ACT to prevent depredations upon, and misappropriations of property in the possession of common carriers for transportation or delivery.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

A felony to open box, etc., of a common carrier, with intent to appropriate contents.

§ 1. That any person who shall open any box, barrel or other package containing personal property of any kind while in the possession of a common carrier for transportation or delivery, for the purpose of appropriating the contents thereof to his own use, or to the use of another, or who shall appropriate to his own use, or to the use of another, any property in the possession of a common carrier for transportation or delivery, shall be guilty of a felony, and shall be punished by confinement in the penitentiary for not less than one nor more than five years.

Approved March 19, 1904.

CHAPTER 45.

AN ACT relating to the record of settlements of fiduciaries in the county court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Settlement of fiduciaries in circuit court must be filed by the clerk in the county court.

§ 1. That in all cases where executors, administrators, trustees, committees, curators, or other fiduciaries, appointed in the county court, but required to make settlement in the circuit court, the clerk of the circuit court shall make and file in the office of the clerk of the county court, a certificate of each approved

settlement, showing the number and style of the case and number of file box in which the suit may be found in the circuit court clerk's office, before whom made, and when approved by the court, and whether a final or partial settlement.

Certificate of settlement recorded by county clerk.

§ 2. The certificate referred to in the preceding section shall be recorded by the county clerk with the record of settlement, in his office. For making such certificate, the circuit clerk shall be allowed a fee of twenty-five cents, and the county clerk a fee of twenty-five cents, for recording same, to be taxed as costs.

Approved March 21, 1904.

CHAPTER 46.

AN ACT to amend and re-enact section 228, of article 4, sub-division 10, chapter 182, of the Acts of 1891-2-3, entitled "An Act relating to crimes and punishments," and approved April 10, 1893, and being section 1366 of the Kentucky Statutes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Bribery of any officer a felony.

§ 1. That section 228 of article 4, sub-division 10, chapter 182, of the acts of 1891, 1892 and 1893, entitled "An act relating to crimes and punishments," and approved April 10, 1893, being section 1366 of the Kentucky Statutes, be, and the same is hereby, amended and re-enacted so that said section shall read:

"Every person who promises, offers, gives or causes or procures to be promised, offered or given, any money or other thing of value, or makes or tenders any contract, undertaking, obligation, gratuity or security, for the payment of money or for the delivery of conveyance of anything of value to any member of either House of

the General Assembly, or to any judicial, executive or ministerial officer of the Commonwealth of Kentucky, or to any county or city executive, ministerial, judicial, or legislative officer, after such member or officer shall have been elected and before or after such member or officer shall have been elected, and before or after such member or officer has been qualified and assumed office, or taken his seat, with intent to influence his vote or decision on any question, matter, cause or proceeding which may be at any time pending in either House of the General Assembly, or before such judicial, executive or legislative officer, or which may be pending before any committee of either House of the General Assembly, shall be confined in the State Penitentiary for a period of not less than one, nor more than five years.

Any member of the General Assembly, or other executive, judicial, ministerial or legislative officer of the Commonwealth of Kentucky, or of any county or city who shall take or agree to take any bribe to do or omit to do any act in his official capacity shall forfeit his office, be disqualified from the right of suffrage for ten years, and confined in the penitentiary not less than one nor more than five years.

Every prosecution under this act must be begun in five years from the date of the commission of the offense, or it will be barred.

§ 2. In view of the serious wave of corruption which has swept over the country involving officers of the Federal Government, members of the various State Legislatures and numerous boards, commissions and councils of various cities, and to prevent the possibility of such shame in Kentucky, an emergency is hereby declared to exist, and this act shall take effect upon its approval by the Governor.

Approved March 21, 1904.

CHAPTER 47.

AN ACT to amend section 2, chapter 1,590, of Acts of 1880, relating to rewards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That sec. 2 of chapter 1590 of the acts of 1880, be, and the same is hereby amended by inserting after the word "thereof," in said section, the following:

"Should it appear that a peace officer had made the arrest, and, in the opinon of the judge of the court, is entitled to all or any part of the reward, the judgment shall show what part he is entitled to," so that said section, when amended, will read as follows:

Allowance and payment of reward.

§ 2. It shall be the duty of the person so securing the arrest and conviction, or delivery of any person guilty of any horse or mule stealing, if he desires said reward, to apply to the court in which the accused is convicted or bond forfeited for same, and if the court is satisfied from testimony taken that the person applying for such reward has in good faith arrested, or directly and immediately caused the arrest and conviction or delivery of a person guilty of horse or mule stealing, he shall cause to be entered on the record book of the court a judgment, stating the name of the person entitled to the reward, and for what the reward is granted, and the amount thereof; should it appear that a peace officer had made the arrest, and in the opinion of the judge of the court is entitled to all or any part of the reward, the judgment shall show what part he is entitled to, and the person so allowed such reward, upon the production to the Auditor of Public Accounts, of a transcript of said order, under the official signature and seal of the clerk of the court

where the conviction or forfeiture is had, shall receive from said Auditor his warrant upon the Treasurer for the amount thereof.

This act shall take effect and be in force ninety days after its approval by the Governor.

Approved March 21, 1904.

CHAPTER 48.

AN ACT to amend section 1,954b, subsection 4, chapter 57, of the Kentucky Statutes, entitled "Game and Birds."

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

License required of hunters.

§ 1. That sub-section 4, of section 1954b, chapter 57 of the Kentucky Statutes, under the title of "Game and Birds," which is a part of the Session Acts of 1902, be, and the same is, hereby amended by striking out after the word "clerk" in line 2, all of the words down to and including the word "of" in line 5, and inserting in lieu thereof the following:

"The same sum as a resident of Kentucky is subject to in the State of said non-resident. The clerk issuing said license shall be paid a fee of fifty cents."

And after the word "of," which is the last word of said section, shall be added the following:

"All sums collected under the provisions of this act, except the clerk's fee of fifty cents for the issuing of said license, shall be paid to the Treasurer of the State as a part of the general expense fund, unless otherwise provided by law." So that said sub-section 4, when amended, shall read as follows:

"Before the issuance of any such license, the applicant shall pay to the clerk of the county court the same

sum as a resident of Kentucky is subject to in the State of said non-resident. The clerk issuing said license shall be paid the fee of fifty cents, which shall be recovered by said clerk and disposed of as other fees of his office are disposed of. All sums collected under the provisions of this act, except the clerk's fee of fifty cents for the issuing of said license, shall be paid to the treasurer of the State as a part of the general expense fund, unless otherwise provided by law."

Approved March 21, 1904.

CHAPTER 49.

AN ACT amending an act enacted March 29, 1902, and which became a law June 17, 1902, chapter 108, article VII, section 4151, regulating fees of sheriffs for advertising delinquent tax-payers and changing their fees from two to one dollar.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That section 4151, of chapter 108, of the Kentucky Statutes, be amended to read as follows:

Sheriff fee for selling real estate for taxes $1.00.

"If there be no personal property that the sheriff or tax collector can restrain for taxes due, and the same shall not be paid by the first day of July, the sheriff or tax collector shall sell for cash any real estate belonging to or listed by such delinquent tax payer, or as much thereof as will pay the taxes due and his commission, in the same manner that lands are sold under execution, except that the land shall not be valued or levied on, and shall be advertised by posting for fifteen days before the sale, a written or printed notice at the courthouse door, and by publication once a week for four weeks prior to the day of sale, in a newspaper of gen-

eral circulation, if there be one in the county, if not, then by printed hand bills, posted for at least fifteen days before the sale, at the courthouse door and in three or more conspicuous places in the tax district; and he shall, not less than fifteen days before the sale, mail to the delinquent, a postal card, addressed to his place of residence or place of business, if such can be ascertained, notifying him of the time and place of the sale; and in order to cover the cost of such advertisement and notification, the sheriff shall have one dollar for each person whose property is advertised, to be paid by the delinquent, but in no event to be paid by the State. The sheriff shall have one dollar for advertising personal property, to be paid by the delinquent. The provisions of this act shall not take effect until and after January 1, 1906."

Approved March 21, 1904.

CHAPTER 50.

AN ACT to amend and re-enact section 3783, of chapter 95, of the Kentucky Statutes, entitled "Patrols," and relating to the compensation thereof.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

How and amount paid patrols.

§ 1. That section 3783 of chapter 95 of the Kentucky Statutes, be amended by adding the following words after the word "duties"—"except, that within counties having a population of over one hundred and fifty thousand inhabitants, they may be paid two dollars for each ten hours, within the discretion of the court," so that said section, when so amended and re-enacted, shall read as follows:

"Patrols shall each be paid by order of the county court, out of the county levy, a sum not exceeding one dollar for each ten hours they may have been purposely engaged in the performance of their duties; except, that within counties having a population of over one hundred and fifty thousand inhabitants, they may be paid two dollars for each ten hours, within the discretion of the court. At the Court of Claims for the county, patrols shall present their claims for services, specifying the number of hours each has been engaged, and verified by the oath of the patrol, upon which the court shall fix the amount to be paid."

Approved March 21, 1904.

CHAPTER 51.

AN ACT creating the thirty-first judicial district of Kentucky, fixing the time of holding courts thereof, providing for the election of a circuit judge and Commonwealth's attorney, and changing the twenty-third and twenty-fourth districts of Kentucky so as to provide for said thirty-first district; and fixing the time for holding the courts in the said twenty-third and twenty-fourth districts.

WHEREAS, There has been a large increase of population and a large development of the resources in the present Twenty-third and Twenty-fourth Districts of Kentucky, so much so that it is impossible for the judges to do the work required of the courts in said districts in the time now allotted by law, or which can be allotted; and

WHEREAS, by reason of these facts the business of said districts is congested and in some of the counties it is impossible to complete the business in the time fixed by law; now, therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Counties of Thirty-first Judicial District.

§ 1. The Thirty-first Judicial District of Kentucky shall be composed of the counties of Knott, Magoffin and Floyd.

The Twenty-third District, Wolfe, Breathitt, Lee and Estill.

The Twenty-fourth District, Johnson, Martin and Pike.

Officers of the 23d and 24th districts unchanged.

§ 2. The present judge and Commonwealth's Attorney in the said Twenty-third and Twenty-fourth Districts shall remain and be unchanged for the time provided by law.

Governor to appoint and commission judge and Commonwealth's attorney.

§ 3. The Governor shall appoint and commission a circuit judge and Commonwealth's Attorney in the Thirty-first District, who shall hold their respective offices as such until their successors are elected and qualified. An election shall be held in said district to elect a Circuit Judge and Commonwealth's Attorney at the regular November election, 1904, to succeed the officers appointed under this act.

Terms of court in the 23d, 24th and 31st districts.

§ 4. The time of holding court in said three districts shall be as follows:

Twenty-third District, Wolfe county, at Campton, third Monday in January first Monday in May, third Monday in September, and continue each eighteen juridical days. Breathitt county, at Jackson, third Monday in February, fourth Monday in May; second Monday in October, and continue each twenty-four juridical days. Lee county, at Beattyville, fourth Monday in March, fourth Monday in June, second Monday in November, and continue each eighteen juridical days. Estill county at Irvine, fourth Monday in April, third Monday in July, sec-

ond Monday in December, and continue each twelve juridical days.

Twenty-fourth District, Pike county at Pikeville, on the first Monday in February, May and October, and continue twenty-four juridical days each term. Johnson county at Paintsville, on the first Mondays succeeding the termination of the Pike terms and continue twenty-four juridical days each term. Martin county at Inez, on the first Monday succeeding the termination of the Johnson terms and continue twenty-four juridical days each term.

Thirty-first District, Magoffin county at Saylersville on the first Monday in February, first Monday in June, first Monday in October and continue eighteen juridical days each term. Floyd county at Prestonburg on the Mondays succeeding the termination of each Magoffin term, and continue eighteen juridical days each term. Knott county at Hindman on Mondays succeeding the termination of each Floyd term and continue eighteen juridical days each term.

Approved March 21, 1904.

CHAPTER 52.

AN ACT to amend an act, entitled "An Act concerning the militia of the Commonwealth of Kentucky," approved March 13, 1893.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Fiscal courts to provide armory, etc. Honorary members exempt from service.

§ 1. That section 46 of the act entitled "An Act Concerning the Militia of the Commonwealth of Kentucky," approved March thirteenth, one thousand eight hundred and ninety-three, and being section two thousand six hundred and ninety-seven, of chapter

eighty-six, Kentucky Statutes, titled, "Militia," be amended by striking therefrom the words, "Provided, That in cities of the first and second classes, such provisions shall be made at the cost of the city by the proper department of municipal government," so that said section, when so amended, shall read as follows, viz.:

"Where State Guard companies have been or may hereafter be, organized, and furnished with public arms or equipments by the Governor, in any county of this Commonwealth, the Fiscal Court of said county shall provide, at the cost of the county, an armory for drill, and safe place for keeping such public arms and equipments where they will be at all times accessible to the company."

Amend section 18 of said act so that said section as amended shall read as follows:

"Section 18. Each regiment or separate battalion may have a council of administration, composed of the commissioned officers, which shall be charged with the care and control of the fiscal affairs of the command, may adopt suitable by-laws, effective on the approval of the Governor, and may elect not more than twenty-five honorary members for each company, battery or troop, entitled to exemption from jury service upon their payment annually, or oftener if the council shall so determine, a sum not less than twenty-five dollars; and the money thus obtained shall be for the use of the regimental or battalion fund, and expended by the commanding officer as in his judgment the interests of the command require. Each company may also have a council of administration, composed of its commissioned officers, which shall be charged with its fiscal affairs. Said council may make an allowance out of the company fund to the company clerk, and

for such necessary expenditures as are strictly within the purpose of maintaining the effectiveness of the organization. No extraordinary expenditure shall be made out of the company fund except by a majority vote of all the company members present at a regular company business meeting, or such a meeting called by a majority of the council, or sufficient notice for the members to assemble."

§ 2. Inasmuch as there is no adequate protection at the present time, to valuable arms and equipments now in the possession of companies located in cities of the first and second classes, an emergency is declared to exist, and this act shall take effect and be in force, from and after its passage.

Approved March 21, 1904.

CHAPTER 53.

AN ACT to empower cities of the fourth class to separate the management and control of their schools where the same are now under the control of a board of education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

How graded free white schools and graded free colored schools in 4th class cities maintained.

That any city of the fourth class having heretofore organized a system of free graded schools for the education of the white and colored pupils of said city, under and by virtue of the charter for cities of the fourth class, and managed and controlled by a Board of Education, may, by ordinance passed by its general council separate said system of graded free schools into a graded free white common school for the white pupils of said city, and into a graded free colored common school for the colored pupils of said city. When

said system of schools has been so changed and separated as hereinabove provided, each system shall be governed and controlled by a board of six trustees elected or appointed, as now provided by general law for the government of graded free white and colored schools. Each of said systems of graded free white and colored schools shall be supported and maintained by its pro rata share of the State School Fund, which shall be paid by the State Superintendent of Public Instruction direct to said trustees or their treasurer and by such local taxation as may be or now is provided by law. No tax raised from the property or poll of any white person or corporation in said city shall be used for the support of said graded free colored common schools of said city, nor shall any tax raised from the property or poll of any colored person be used for the support of said graded free white common schools of said city. Said city shall fix by ordinance the maximum amount of tax that shall be levied in any one year on the one hundred dollars worth of property owned by the white citizens and corporations of said city and the maximum poll tax that shall be levied upon each white male citizen over the age of twenty-one years, residing in said city, for white school purposes not to exceed the amount fixed by law, and likewise the maximum amount that shall be levied upon the one hundred dollars worth of property owned by each colored person in said city, and the maximum poll tax that shall be levied upon each colored male citizen over the age of twenty-one years, residing in said city, for colored school purposes not to exceed the amount fixed by law and when said amounts have been fixed the respective boards of trustees of said schools shall not levy and collect a greater amount. After said systems of grad-

ed free white and colored common schools have been established as hereinbefore provided for, the same shall be maintained, managed and controlled as provided for by general law for such schools. The city council shall appoint a board of trustees for each of said systems of graded free white and colored schools who shall act as trustees for said schools until the next succeeding regular election, when their successors shall be elected. When said systems of graded free common schools herein provided for shall have been established, the board of education of said city shall convey all the free school property in said city used by the white pupils to the board of trustees for the graded free white common schools, and all the free school property in said city used by the colored pupils, to the board of trustees for the graded free colored common school.

If the city council shall pass an ordinance as hereinbefore provided for, separating the white and colored schools, either the white persons or the colored persons living in said district may hold an election as provided by the laws governing school elections in said district for the purpose of abolishing the white or colored graded common school system therein existing, the white persons only to vote with reference to the white graded common schools, and the colored persons only to vote with reference to the colored graded common schools; and if such election shall be held and the majority of the votes cast at same shall be in favor of abolishing the white or colored graded common school system in said district, the same shall be abolished.

All laws in conflict herewith are hereby repealed.

Approved March 21, 1904.

CHAPTER 54.

AN ACT to amend an act of March 29, 1902, which became a law June 17, 1902, relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Wholesale dealers of wines, ales or any vinous liquors. if also a dealer for rectified spirits, required to pay $300 license.

That section 54, of subdivision 5, of article 10, of an act relating to Revenue and Taxation of date March 29, 1902, which became a law June 17, 1902, be amended by striking out in the first line after the words "ales" the following words, "mineral waters except natural mineral waters," and in striking out in the fourth line after the word "ales" the following words, "mineral waters," so that the same when so amended and re-enacted shall read as follows

"For each wholesale dealer of wines, ales or any vinous liquors, two hundred dollars. *Provided*, that in the event a resident wholesale dealer of wines, ales or any vinous liquors, is also a wholesale dealer of rectified, blended or compounded single stamp spirits or of straight distilled spirits, but one license tax shall be paid, and which shall not be less than three hundred dollars."

Approved March 21, 1904.

CHAPTER 55.

AN ACT to define vagrants and to punish vagrancy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The following persons shall be deemed to be vagrants to-wit: Who are vagrants.

(1) Any able-bodied male person who habitually loiters or rambles about without means to support himself, and who has no trade, calling or profession to make an honest livelihood.

(2) Any able-bodied male person who is without visible means of support, and who habitually fails or refuses to engage in honest labor for his own support, or for the support of his family, if he has one.

(3) Any able-bodied male person who purposely deserts his wife or children, leaving them, or any of them, without suitable subsistence or suitable means of subsistence, and himself being idle and dissolute.

(4) Any able-bodied person, male or female, who has no visible means of support and who habitually refuses to work, and who habitually loiters on the streets or public places of any village, town or city.

§ 2. Any person found guilty of the offense of vagrancy shall, for the first offense, be fined ten dollars or imprisonment in the workhouse, if there be one, for thirty days; if not, imprisonment shall be in the county jail thirty days, or the punishment may be both such fine or imprisonment. For the second offense and all subsequent offenses, sixty days imprisonment in the workhouse, if there be one, if there be none, in the county jail. Any one who is fined under this act shall be required to work at hard labor at the rate of one dol- Punishment prescribed.

lar per day until fine and cost are satisfied. Any one who is imprisoned, either in workhouse or jail, shall be required to work at hard labor during the term of his imprisonment.

Jurisdiction of offense.

§ 3. Circuit Courts, Police Courts, Quarterly Courts, and Justices of the Peace shall have jurisdiction of the offense of vagrancy, and for the purpose of trying a person charged with vagrancy, Police Courts, Quarterly Courts and Justices Courts shall be deemed to be always open.

Peace officer to arrest such persons.

§ 4. It shall be the duty of all sheriffs, constables, marshals, and policemen to keep a watch for vagrants at these places where they are accustomed to congregate. And if any of these officers has reason to believe that a vagrant habitually infests a public place or street, it shall be the duty of said officer to warn him to leave such place and go to work. If two or more vagrants habitually loiter about any street or public place, it shall be the duty of such officers to disperse them, using no more force than is reasonably necessary for that purpose.

§ 5. Chapter 132 of Kentucky Statutes, and chapter 111, of the General Statutes are hereby repealed, and all acts and parts of acts inconsistent with this act are repealed.

Approved March 21, 1904.

CHAPTER 56.

AN ACT to repeal the charter of the town of Shady Grove, in Crittenden county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the act, entitled "An act to incorporate the town of Shady Grove, in Crittenden county," approved April 22, 1884, and all such acts amendatory thereof, be and the same are hereby repealed, and said corporation is hereby dissolved.

Repeals the charter of Shady Grove, Crittenden county.

§ 2. That any public money remaining in the treasury of said town, when this goes into effect, shall be turned over to the treasury of Crittenden county and applied by the Fiscal Court of the county the repairs of the public roads now within the boundary of said town.

Public money in the treasury turned over to treasury of Crittenden county.

§ 3. This act shall take effect and be in full force and effect from and after its passage.

Approved March 21, 1904.

CHAPTER 57.

AN ACT to provide for oil warehouses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That cotton seed oil may be received and stored by the owner of any oil warehouse, and warehouse receipts may be issued therefor, as herein provided; the owners of such warehouse shall, before transacting any business, obtain a license and give bond as provided for by sections 4782 and 4783 of the Ken-

Cotton seed oil stored in warehouses. Warehouse receipts therefor.

tucky statutes in the case of grain warehouses, such bond to be in the penal sum of twenty-five thousand ($25,000) dollars.

Duty of warehouseman.

§ 2. The warehouseman shall provide tanks for the storage of such oil, and may store in the same tanks various lots of oil of the same grade and quality, and issue warehouse receipts therefor, but oils of different grade or quality shall not be mixed together, nor shall the warehouseman attempt to deliver oil of one grade or quality for another.

What receipts must show.

§ 3. On application of the owner or consignee of oil stored in any licensed warehouse hereby authorized, the warehouseman shall issue to the persons entitled thereto a warehouse receipt therefor, subject to the order of the owner or consignee, which receipt shall bear date corresponding with the receipt of the oil into store, and shall state upon its face the quantity and inspected grade of the oil, and that the oil mentioned has been received in store, to be received and stored with other oil of like kind and grade and that it is deliverable upon the return of the receipt, properly endorsed by the person or corporation to whose order it was issued and the payment of the proper charge for storage.

All receipts numbered, and no two same number.

§ 4. All warehouse receipts for oil issued from the same warehouse shall be consecutively numbered and no two receipts shall bear the same number, except in the case of a lost or destroyed receipt, in which case the new receipt shall bear the same date and number as the original receipt, and shall be plainly marked on its face "duplicate."

When warehouseman to cancel receipts.

§ 5. On delivery of oil from store against receipts, such receipt shall be plainly marked by the warehouseman, across its face, with the word "Cancelled," and

the same shall thereafter be void and shall not again be put in circulation.

Receipts issued on delivery of oil.

§ 6. No warehouse receipt shall issue, except on the actual delivery of oil into store in the warehouse from which it purports to be issued, and which is to be represented by the receipt, not for a greater quantity of oil than was received. Where a part of the oil represented by the receipt is delivered out of store, a new receipt may be issued for the remainder, but it shall bear the same date as the original and show on its face that it is the balance of the original number, and the receipt on which part has been delivered shall be cancelled. When it is desired to divide one receipt or to consolidate two or more into one, this may be done with the warehouseman's consent, and the original receipts may be cancelled; but the new ones must show on their face that they have proceeded from such division, or consolidation, together with the numbers and dates of the old receipts.

Duty to keep as much oil in store and tanks as represented in receipts.

§ 7. Every warehouseman doing business under this act shall at all times have in store in his tanks an amount of merchantable oil equal in quality, quantity and grade to the amounts called for by its outstanding receipts, and every warehouseman wilfully failing so to do shall be liable on his bond to any person or persons, corporation or corporations, for all damage sustained by such failure.

Warehouseman to keep a register showing amount, grade and quality of oil.

§ 8. The warehouseman shall, in a book provided for that purpose, show the amount, grade and quality of oil on hand, and the amount of receipts outstanding, which book shall be open at all times to the inspection of any holder of such receipt.

Kentucky Statutes 4768 to 4780, inclusive, are made a part of this act.

§ 9. Any warehouseman wilfully failing or refusing to comply with section seven of this act shall be deemed guilty of a felony, and shall be confined in the

penitentiary for not less than one nor more than five years.

§ 10. The provisions of section 4768, to and including section 4780 of chapter 133 of the Kentucky Statutes, are hereby made applicable to oil warehouses, and oil warehousemen shall perform the duties and be subject, as other warehousemen, to the penalties in said sections provided.

§ 11. WHEREAS, No law now exists in this State authorizing the storage of cotton seed oil and the issuing of warehouse receipts therefor, where various lots of oil are stored in the same tank, and the business of many citizens is thereby, in a great measure, restricted and hampered, an emergency is hereby declared to exist, and this act shall take effect from its passage.

Approved March 21, 1904.

AN ACT for the protection of Chautauquas.

CHAPTER 58.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Penalty for unlawfully entering or remaining on grounds.

§ 1. That any person who, during the holding of any assembly of any Chautauqua Association, or company incorporated under the laws of the State of Kentucky, shall, with intent to defraud any such association or company, enter, or attempt to enter, or go upon or within, or remain within the enclosed grounds or buildings of such association or company, without permission from the proper authorities thereof so to do, or without having purchased and surrendered a proper ticket of admission which entitles such person so to enter or remain, or who shall fail to comply with the published

rules of such company or association in regard to entrance to its grounds or buildings, or in regard to remaining thereon, shall be deemed guilty of a misdemeanor, and, on conviction thereof before any court of competent jurisdiction shall be fined not less than two dollars nor more than twenty dollars for each offense.

to act in the capacity of special policemen, as may by qua Association or company to select at or before the

§ 2. That is shall be lawful for any such Chautau- County judge to appoint special policemen—when.
time of holding its annual assembly as many persons said association or company be deemed requisite to insure peace and good order and to prevent trespass upon, within or about the enclosed grounds, buildings and places of holding such assembly, for and during the holding of the same. Persons so appointed shall, by such association or company, be suggested to the Judge of the County Court in which such association is being, or is to be held, whereupon it shall be the duty of such judge to make an order in the county court, appointing such policemen, and he shall administer to each of them an oath to faithfully discharge the duties of his office, and the Clerk of the Court shall furnish to him a certified copy of such order of appointment, which shall be deemed a sufficient commission. The said policemen when so appointed and qualified shall wear an appropriate badge of office and shall be clothed with all the power and authority of peace officers in this Commonwealth.

§ 3. Any special policemen appointed and quali- Power to arrest with or without a warrant.
fied pursuant to this act, and any sheriff, coroner or constable, or other peace officer authorized to make arrests, shall have the power upon view with warrant, or without warrant, to arrest any person or persons guilty of the violation of any of the provisions of this

Act, and take them before any court having jurisdiction thereof, for trial.

§ 4. WHEREAS, Some of the Chautauquas of this State may hold their assemblies before this act would otherwise go into effect; and,

WHEREAS, Such protection as is herein provided is essential for the proper conduct of such assemblies, an emergency is hereby declared to exist, and this act shall take effect and be in force from and after its final passage.

Approved March 21, 1904.

CHAPTER 59.

AN ACT providing a penalty for drawing, flourishing or waving a deadly weapon in or upon a passenger coach.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Unlawful to draw, wave or flourish deadly weapon on passenger train.

§ 1. That it shall be unlawful for any one to draw, flourish or wave a deadly weapon inside of a passenger coach, or on the platform of any passenger coach occupied by passengers or employes.

Punishment.

§ 2. Any one found guilty of said offense shall be punished by a fine of not less than twenty-five dollars nor more than three hundred dollars, or confinement in the county jail not less than ten days nor more than twelve months, or both so fined and imprisoned in the discretion of the jury.

Approved March 21, 1904.

CHAPTER 60.

AN ACT to repeal the charter of the town of Maytown, in Morgan county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

An act to repeal an act to incorporate the town of Maytown, Morgan county.

§ 1. That the act entitled, "An act to incorporate the town of Maytown, in Morgan county," approved March 4, 1884, and all such acts amendatory thereof, be, and the same are, hereby repealed and said corporation is hereby dissolved.

§ 2. That any public money remaining in the treasury of said town when this goes into effect shall be turned over to the treasury of Morgan county and applied by the fiscal court of the county to the repairs of public roads now within the boundary of said town.

§3. This act shall take effect from and after its passage.

Approved March 21, 1904.

CHAPTER 61.

AN ACT ceding to the government of the United States jurisdiction over certain lands for a public building in the city of Owensboro, Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Jurisdiction of Kentucky ceded to the United States over building site in Owensboro.

§ 1. That jurisdiction is hereby ceded by the Commonwealth of Kentucky to the Government of the United States over so much land and appurtenances not exceeding one acre in the city of Owensboro, in the county of Daviess and State of Kentucky, as may be

selected and used for the purpose of erecting and maintaining thereon a public building for internal revenue office, postoffice, federal court, and other government purposes: *Provided, however,* that civil and criminal process issued by State authority may be executed thereon as though this act had not been passed.

§ 2. WHEREAS, It is contemplated that the Government of the United States will desire to acquire such property in said city, and to begin the erection of buildings thereon before this act would otherwise go into effect, an emergency is now declared to exist and this act shall take effect and be in force from and after its final passage.

Approved March 21, 1904.

CHAPTER 62.

AN ACT to amend the charter of towns of the sixth class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

All residents of sixth-class towns which lie in two counties, entitled to vote for city officers.

§ 1. Whenever a town of the sixth class lies in two or more counties, all the qualified voters resident in such town shall be entitled to vote at any election in said town for the election of police judge, trustees and marshal, and any other election held by said town for municipal purposes.

Jurisdiction of such towns.

§ 2. Any town situated as described in section one of this act shall be considered to be in the county in which a greater portion of the inhabitants of said town reside, and all election returns, records, bonds, and legal proceedings shall be made and had in the county in which a greater portion of the inhabitants of said town reside.

Approved March 21, 1904.

CHAPTER 63.

AN ACT to amend and re-enact section 1905a of the Kentucky Statutes, being section 8 of an act, entitled "An act to amend an act of the General Assembly of the Commonwealth of Kentucky, entitled An Act regulating the sale of food, which became a law June 13, 1898," approved March 17, 1900.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section 1905a of the Kentucky Statutes, being section 8 of an act entitled, "An act to amend an act of the General Assembly of the Commonwealth of Kentucky, entitled, "An Act Regulating the Sale of Food," which became a law June 13, 1898, approved March 17, 1900, be, and the same is, hereby amended and re-enacted so as to read as follows: Experiment station—$10.500 appropriated therefor.

§ 8. Said experiment station shall receive ($7.50) seven dollars and fifty cents for the analysis of each sample taken in accordance with this act, and all necessary expenses in carrying out the provisions of this act, including expenses for procuring samples, expert witnesses attending the grand juries and courts, clerk hire and attorneys' fees:

Provided, The total expenses from all sources shall not exceed in any one year ten thousand five hundred dollars ($10,500). The director of said experiment station shall furnish to the Auditor of Public Accounts an itemized statement of all the expenditures of money made under this act.

§ 2. The amount of expenditures reported to the Auditor shall be paid by the Commonwealth to the treasurer of said experiment station, upon the written request of the Board of Control of said experiment station, and the Auditor, for the payment of the same, is How expended.

directed to draw his warrant upon the treasurer as is the manner of the payment of other claims against the Commonwealth.

Approved March 21, 1904.

CHAPTER 64.

AN ACT to amend section 360 of the Kentucky Code of Practice in criminal cases.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Mandate not issued nor decision become final until 30 days.

§ 1. That section 360 of the Code of Practice in Criminal Cases, as it now reads, be stricken out, and the following words inserted in lieu thereof:

"The appeal shall be decided at the same term at which it is submitted, or as soon thereafter as practical: *Provided,* That no mandate shall issue, nor decision become final, until after thirty days, excluding Sundays, from the day on which the decision is rendered, unless the court, in delay cases, otherwise direct; and if said thirty days expire during a vacation or recess of the court, a written order of one of its judges, filed in the clerk's office within said thirty days, shall have the same effect to suspend the mandate, by allowing a petition for re-hearing to be filed, or by allowing time to file such petition, as if such order were made by the court."

Approved March 21, 1904.

CHAPTER 65.

AN ACT to amend section 352 of the Kentucky Code of Practice in criminal cases.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

How appeals in criminal cases taken.

§ 1. That section 352 of the Code of Practice in Criminal Cases be amended by adding thereto the following words: "But in such cases an appeal may be taken by the Commonwealth, as provided in section 337 of this Code, when it is important to the correct and uniform administration of the criminal law." So that the section, as amended, shall read as follows:

"A judgment on a verdict of acquittal of an offense, the punishment of which is imprisonment, shall not be reversed; but in such cases an appeal may be taken by the Commonwealth, as provided in section 337 of this Code, when it is important to the correct and uniform administration of the criminal law."

Approved March 21, 1904.

CHAPTER 66.

AN ACT relating to revenue and taxation, providing for taxation of shares of national banks and collection thereof.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Reports filed with auditor on or before March 1st annually.

§ 1. That all national banks shall file with the Auditor their reports on or before the first day of March, 1905, and annually on or before March 1 thereafter. Said report shall be made up to and including the fifteenth day of the preceding September. The taxes here-

in provided for shall be due and payable on or before the first day of July next succeeding such report. Upon failing to make said reports or to pay said taxes, as herein required, said banks shall be subject to the fines and penalties now prescribed by law for such failure on the part of State banks.

Report required to determine the value of shares of stock.

§ 2. In order to determine the value of shares of national banks in this State, and to assess all shares of national banks for State purposes and for the purpose of taxation in each county, city, town and taxing district, it shall be the duty of the president, cashier or other chief officer of each national bank in this State to annually, between the fifteenth day of September and the first day of March, make and deliver to the Auditor of Public Accounts a statement, verified by its president, cashier or other chief officer, in such form as the Auditor may prescribe, showing the following facts, to-wit: The name and postoffice address of the bank; the names of president, cashier and board of directors; the number of shares of stock, and par value of each share; the amount of surplus fund and undivided profits; the amount of value of all real estate held and owned by the bank on the fifteenth day of September of each year; the amount of United States bonds owned by the bank; the amount of its loans and discounts; the amount of its deposits, and such other information as the Auditor may require.

Duties of board of assessment.

§ 3. The Auditor, Treasurer and Secretary of State are hereby constituted a Board of Assessment for the purpose of fixing the value of shares of all national banks in this State. It shall be the duty of the Auditor, immediately after the Board of Assessment has fixed the value of the shares of national banks to furnish each bank with a statement of the value fixed on its shares and the amount of tax due thereon, and

the bank shall have thirty days from the time of receiving the notice to go before the Board and ask for a change in the valuation, and the Board, after hearing such evidence as may be submitted, may change the valuation and assessment as it may deem proper, and the action of the Board shall be final. Each bank shall be entitled to have deducted from the total valuation placed on its shares by said Board, the assessed value of its real estate in this State. It shall be the duty of the national banks to list with the county assessor of each county its real estate and pay the taxes thereon to the sheriff. The Auditor shall, at the expiration of thirty days after final action by said Board, certify to the county clerk of said counties where national banks are located, the value of the shares of the bank, less the assessed value of its real estate, and such certificate shall be by each county clerkfiled in his office and be by him certified to the proper collecting officer of the county, city, town or taxing district, for collection, and each county, city, town or taxing district shall be entitled to collect taxes on such valuation, except in such cities and towns as otherwise provided. Any bank failing, through its officers, to make the report and pay the taxes as herein provided for shall be liable to such penalties and fines as are imposed by law for such offense on the part of the State banks. Taxes due by national banks to the State as imposed by this article shall be payable directly into the State Treasurer by the bank, on or before the first day of July next succeeding such report.

§ 4. All acts or parts of acts in conflict or inconsistent with this act providing for other methods of taxation of shares of national banks and the collection of taxes thereon are hereby repealed.

Approved March 21, 1904.

CHAPTER 67.

AN ACT to amend and re-enact section 6 of an act, entitled "An Act concerning conveyances," approved April 22, 1893, and being section 495 of the Kentucky Statutes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Source of title must be given in deed to authorize recording.

§ 1. That section 6 of an act entitled, "An act concerning conveyances," and approved April 22, 1893, and being section 495 of the Kentucky Statutes, be, and the same is, hereby amended and re-enacted, so that the same shall read as follows:

"All deeds and mortgages and other instruments of writing which are required by law to be recorded to be effectual against purchasers without notice, or creditors shall be recorded in the clerk's office of the court of the county in which the property conveyed, or the greater part thereof, shall be. But it shall be unlawful for any county clerk or deputy county clerk to admit to record in such office any deed of conveyance of any interest in real estate equal to or greater than a life estate, unless such deed shall plainly specify and refer to the next immediate source from which the grantor or grantors therein derived title to the said real estate or the interest conveyed therein.

"If such source of title be a deed or other recorded writing, then the deed offered for record shall refer to such former deed or writing, and give the office, book and page where recorded, and the date thereof, if dated. If the property or interest therein be obtained by inheritance or in any other way than by recorded instrument of writing, then the deed offered for record shall state clearly and accurately how and from whom the title thereto was obtained by the grantor or grantors.

"And if the title to such property or interest conveyed be obtained from two or more sources, then the deed offered for record shall plainly specify and refer to each of said sources in the manner above set out, and shall show which part of said property, or interest therein, was obtained from each of said sources.

"It shall be unlawful for any grantor to lodge for record, or for any county court clerk or deputy to receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.

Penalty for lodging deed for record, which does not show source of title.

"Any grantor who shall lodge for record, and any county court clerk or deputy county court clerk, who shall receive and permit to be lodged for record any deed contrary to the provisions of this section shall be fined not less than twenty-five dollars nor more than fifty dollars for each offense. The clerk or deputy who actually receive files such deed for record, shall be the one to incur the penalty of this section: *Provided*, That nothing in this act shall be construed to make any clerk or deputy clerk liable to the fine imposed herein because of any erroneous or false reference in any such deed, nor because of the omission of a reference required by this act where it does not appear on the face of such deed that the title to the property or interest conveyed was obtained from more than one source; and this act shall not apply to deeds made by any court commissioner, sheriff or by any officer of court in pursuance of his duty as such officer, nor to any deed or instrument made and acknowledged before the passage of this act, nor shall anything in this act be construed to invalidate any deed lodged contrary to the provisions hereof.

"All fines collected under this section shall go into the common school fund for this State."

Approved March 21, 1904.

CHAPTER 68.

AN ACT creating the offices of fish and game wardens and defining the powers and duties and fixing the compensation of such officers, and for the further protection and preservation of fish, game and birds in the State of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Offices of fish and game wardens created.

§ 1. The offices of fish and game wardens are hereby created.

County judge to appoint.

§ 2. The county judge of each county shall appoint one or more fish and game wardens for each county in the State, who shall hold office and be subject to removal therefrom at the pleasure of the county judge. Each game warden, before entering on the duty of his office shall execute his bond to the Commonwealth, with good surety, to be approved by the county judge.

Powers and duties or such wardens.

§ 3. It shall be the duty of fish and game wardens to enforce within this State all laws relating to the protection, preservation and propagation of fish, birds and game. Each fish and game warden shall have full power to execute and serve all warrants and process of law issued for, in connection with or growing out of, the enforcement of any law relating to the protection, preservation or propagation of fish, birds and game in the same manner and to a like extent that any sheriff or constable may serve and execute such process, and shall be entitled to the same fees for said services as are now allowed by law to sheriffs for similar services

in criminal cases. They may arrest on sight and without warrant any person detected by them in the act of violating any such law; they shall have the same right as sheriffs to require aid in executing any process or in arresting without process any person found by them in the act of violating any of said laws; and they shall have authority to seize without process; and birds, fish or game then found in the possession of any such person, together with the guns, nets, seines, traps or other devices with which the same were taken or killed, and destroy or confiscate such guns, nets, seines, traps or other devices, and forthwith convey such offender before a court or magistrate, having jurisdiction of the offense, and such court or magistrate shall, upon the filing by the warden of a proper complaint, proceed speedily to try and determine the truth of the charge.

§ 4. After payment of the percentage of fines allowed by law to the other public officers, the remainder shall go to the fish and game warden instituting the prosecution, and upon filing a verified claim with the Auditor, he shall draw his warrant upon the Treasurer in favor of such fish and game warden.

Approved March 21, 1904.

CHAPTER 69.

AN ACT to require non-resident individuals, partnership associations and joint stock companies to designate a resident agent upon whom process issued in an action or proceeding may be served.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That an individual, residing in another State, or a partnership association or joint stock company, A non-resident individual, partnership or joint stock company to file in

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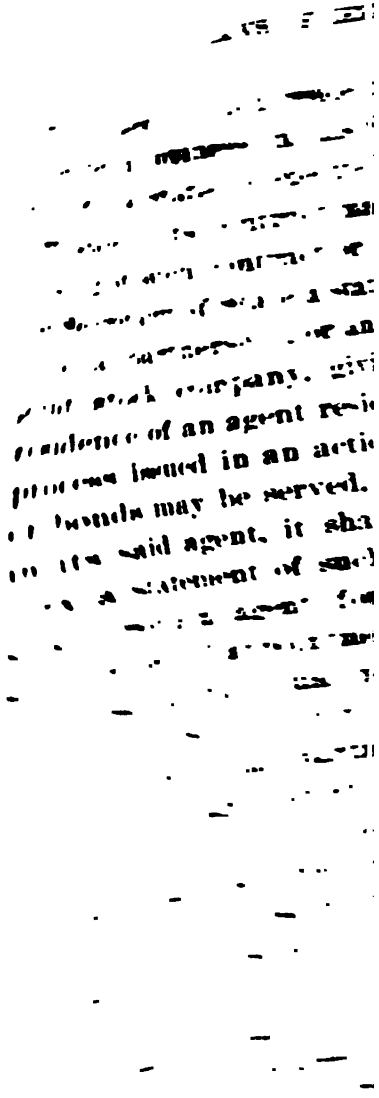

CHAPTER 70.

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he General Assembly of the Com-
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office of secretary of State name and residence of an agent on whom process executed.

the members of which reside in another St... engaged in business in this State and re... law of this State to execute bond or bond... formance of its contract made herein, sh... making of such contract or contracts, file i... the Secretary of State a statement subscrib... dividual partnership, or an officer of such ... joint stock company, giving the name o... residence of an agent residing in this Stat... process issued in an action or proceeding ... or bonds may be served, and when any c... in its said agent, it shall at once file wi... tary a statement of such change, and the ... shall remain agent for the purpose of ... statement of appointment of new agent i... any such individual partnership, associa... pany fails to comply with the provision... such individual partnership, association ... and any agent or employe thereof who sh... carry on or conduct any business in this S... fore such statement is filed, he or it shall ... guilty of a misdemeanor and fined not less ... dred dollars nor more than one thousand ...

Penalty for failure.

WHEREAS, Numerous non-resident indi... nership associations and joint stock com... gaged in business in this State without ... dent agent or representative upon wh... process can be made, an emergency is he... to exist, and this act shall take effect fr... its passage and approval.

Approved M...

CHAPTER 70.

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municipality or municipalities or pipe line or lines
transporting or delivering water in connection with
municipality.

ted by the General Assembly of the Com-
Kentucky:

Companies vested with power to condemn lands.

corporations or companies organized for
f constructing, maintaining or operating
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ties, or pipe line or lines for conveying,
or delivering water in connection with the
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examine, alter, repair, maintain, operate,
ove such pipe line or lines; all such being
ed to be a public use, and when any such
r company desires to construct water pipe
for the purpose of conducting and trans-
delivering water over the lands of others,
le to contract or agree with the owner or
d or material for its use for said purposes,
e mode prescribed for the condemnation of

land for railroads, condemn the use of so much of said land as may be necessary for the purpose of constructing, maintaining and operating such pipe line or lines, and all necessary reservoirs, settling basins, filters, machinery, pumping stations, appliances and fixtures, including necessary telephone lines, "and for the purpose of securing and maintaining the purity of the water supply," and including rights of ingress and egress; to examine, alter, repair, maintain and operate or rebuild or remove the same.

Provided, however, that where, by the charter of any existing water company, or amendments thereto, powers of acquiring materials, land or rights therein are conferred upon such company, nothing herein contained shall be held to repeal, impair or modify such powers."

Approved March 21, 1904.

CHAPTER 71.

AN ACT to authorize telephone companies, partnerships or individuals to contract for right of way across and along public roads and turnpikes, and over and across the lands of private persons, and to condemn the right of way when the same is not secured by contract.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

When telephone companies to condemn right of way.

§ 1. That any telephone company chartered and incorporated under the laws of this or any other State, partnership or individual, shall, upon making just compensation as hereafter provided, have the right to construct, maintain and operate telephone lines through any public lands of this State and on and across and along all public roads and turnpikes, and across and

under any navigable waters and on and across the land of any person: *Provided,* That fixtures of said company shall not interfere with the travel on and along said roads, nor obstruct the navigation of said waters.

§ 2. If such telephone company, partnership or individual, can not obtain the right of way by contract, companies, partnerships or individuals may proceed to institute condemnation proceedings to obtain the desired right of way, which proceedings shall be substantially the same as is provided in chapter 125a (section 4679a, Kentucky Statutes), in respect to proceedings to acquire the right of way for telegraph companies.

Amendment to section 4679a, Kentucky Statutes.

§ 3. The provisions of this act shall not apply to any incorporated town or city.

Approved March 21, 1904.

CHAPTER 72.

AN ACT to amend section 5 of an act, entitled "An Act creating the county of Beckham" and providing for transfer of assessment lists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section 5 of an act, entitled, "An act creating the county of Beckham," and which section reads as follows:

The act creating Beckham county has been held unconstitutional and this act is therefore void.

"§ 5. The said commission shall have the power, and it shall be its duty, to provide temporary places for holding courts and keeping the public records of said Beckham county until permanent buildings are provided for such purposes," be so amended as to read as follows:

Zimmerman v. Brooks and Carter County v. Brooks. 25 L. R.

"§ 5. The said commission shall have the power and it shall be its duty, to provide temporary places for holding the courts and keeping the public records of said Beckham county until permanent buildings are provided for such purposes; that it shall be the duty of the county courts of any county, whose territory is affected by the act creating the county of Beckham, to direct the county court clerks to compile, make up and certify to the county court clerk of Beckham county the property assessment lists, already made for the current year, of the property properly assessable in Beckham county by reason of its location therein; and the sheriffs of said adjoining counties so affected are respectively relieved from the responsibility of the collection of such tax lists so certified to the county court clerk of Beckham county. For the service of so compiling and certifying such lists as herein provided, the fiscal court of Beckham county shall allow to such county court clerks a reasonable compensation, payable out of the revenues of said Beckham county."

§ 2. WHEREAS, It is necessary that the taxes due the county of Beckham be collected when due, an emergency is declared to exist, and this act shall be in force from and after its passage and approval by the Governor.

Approved March 21, 1904.

CHAPTER 73.

AN ACT to amend section 1054, Kentucky Statutes, which is section 34, article 3 of an act, entitled "An Act relating to courts of justice," which became a law and was approved by the Governor June 10, 1893.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Bonds not required in suits involving questions of exemptions.

§ 1. That section 1054, Kentucky Statutes, which is section 34, article 3 of an act, entitled "An act relating to courts of justice," which became a law and was approved by the Governor, June 10, 1893, be amended by striking therefrom the following language, to-wit:

"When the value in controversy is over ten dollars, exclusive of interest and cost," and inserting the words "in civil cases," so that said section, when amended, will read as follows, to-wit:

"Appeals may be taken to the Quarterly Court from all judgments and orders of justices, fiscal, city or police, ordinance courts in civil cases." *Provided*, That, in all cases which involved a question of exemption, appeal shall be granted to the defendant without the execution of a bond as required in other cases of appeal.

Approved March 21, 1904.

CHAPTER 74.

AN ACT to prevent the suppression of testimony.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Leaving State to keep from testifying.

§ 1. That if any person shall leave the State of Kentucky or avoid service of process by any means whatever, so as to avoid being compelled to testify before any Legislative Committee or Grand Jury he shall be deemed guilty of a misdemeanor, and upon conviction, may be fined from thirty dollars to five hundred dollars, and imprisoned from thirty days to six months, or he may be so fined or imprisoned, at the discretion of the jury.

Penalty for.

Penalty for procuring to leave State.

§ 2. If any person shall cause or procure the absence of such witness, as defined in the preceding section, he shall be deemed guilty of a misdemeanor, and may be fined or imprisoned, as provided in the foregoing section, and if the offender be a practicing lawyer such conduct shall be grounds for his disbarment, and prohibition thereafter to practice law, and he may be tried before any circuit judge, whether he has been tried and convicted before a jury or not.

Conspiracy to induce witness to leave. Penalty.

§ 3. A conspiracy among two or more persons to violate the provisions of this act shall make such conspirator liable for the punishment in the first section laid down, and while all the evils against which this act is addressed are of constant occurrence and greatly hinders and impedes legislative committees and courts of justice, an emergency is declared to exist, and this act shall take effect from and after its passage.

Approved March 21, 1904.

CHAPTER 75.

AN ACT for the benefit of and to reimburse cemetery companies in this State for the over-payment of taxes.

Auditor and county to credit future taxes of cemetery companies where said companies have paid taxes barred by limitation.

WHEREAS, Certain cemetery companies in this State, during the year 1903, have paid into the Treasury of this State taxes under the authority of the case decided by the Court of Appeals of Kentucky, of the Commonwealth v. The Lexington Cemetery Company, decided November 18, 1903, and reported in volume 24, page 924, of the Kentucky Law Reporter, for ten years prior to the year 1903, when said companies, if they had relied upon the statute of limitations in such cases made and provided, would have been liable, and should have paid, for only five years prior to and including the year 1903, as decided by the Court of Appeals of Kentucky, in an opinion filed March 25, 1903, in the case of the Commonwealth, &c. v. Nute, and reported in volume 24, page 2138, of the Kentucky Law Reporter; and,

WHEREAS, it is not just or proper that such cemetery companies should be required to pay back taxes for a longer period in the past than other persons; Now, therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That wherever any cemetery company, organized under the laws of this State, against which tax proceedings have been instituted for back taxes during the year 1902 or 1903, has paid taxes for a longer period than five years prior to the date of the institution of such proceedings, said cemetery company

shall be entitled to credit; and it shall be the duty of the Auditor, and of any county in this State, to which such taxes have been paid, to allow said cemetery company credit, in future collections, by said excess of taxes paid to State or county for more than five years prior to the institution of such proceedings: *Provided, however*, That no such company shall be entitled to the benefits or privileges of this act until it has paid all taxes for five years next preceding the institution of such proceedings against it, and proof of such payments, and also of the payments prior to the five years next preceding the institution of such proceedings, shall be filed with the Auditor and with the proper collecting officers of any county before any such company shall be entitled to the credits provided for by this act.

Approved March 21, 1904.

CHAPTER 76.

AN ACT to regulate the sale of intoxicating liquors by wholesale in this Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Wholesale of intoxicating liquors in local option districts prohibited, except by manufacturer.

§ 1. It shall be unlawful to sell by wholesale any spirituous, vinous, malt or other intoxicating liquors, regardless of the name by which it is called (except manufacturers selling liquors of their own make) in any county, district, precinct, town or city, where the sale of such liquor has been prohibited by special act of the General Assembly, or by vote of the people under the local option law. Any person violating this act shall be deemed guilty of violating the local op-

tion law, and shall be subject to trial and punishment according to the provisions of the same and its amendments.

§ 2. All laws inconsistent or in conflict with this act are hereby repealed.

Approved March 22, 1904.

CHAPTER 77.

AN ACT to authorize the counties of this Commonwealth to issue bonds for the construction of turnpikes and gravel roads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the fiscal court shall have power to issue and sell bonds, from time to time, within the constitutional limitation, for the purpose of constructing turnpike or gravel roads, and may cause the bonds of said county to be prepared, executed and issued, on printed forms under the seal of the county clerk, which bonds shall be signed by the presiding judge of the county court and countersigned by the county court clerk of the county, payable to bearer at such place as the court may fix or direct, and at such time or times as may be fixed or designated by the court, not less than two nor more than thirty years from the date of the bonds; and the time of payment or redeeming the bonds may be optional on the part of the county within the limits above described; and said bonds shall not bear a greater rate of interest than six per cent. per annum, to be paid annually or semi-annually as the court may direct, from the date of the bonds; and the interest coupons shall be attached to each bond, which

Fiscal courts may issue and sell county bonds for turnpike purposes.

shall be signed by the county clerk only, and he shall keep a list of all said bonds, showing the number, date, amount, time due, to whom delivered and when delivered, which shall be carefully preserved in his office.

Said bonds shall be issued in denominations of not less than one hundred dollars nor greater than one thousand dollars. But before said bonds shall be issued, the question shall be submitted to the legal voters, at a general election held in such county. Before said question shall be submitted, a petition signed by legal voters, to the number of at least fifteen per cent. of the votes cast at the last general election held in such county, shall have been filed in the county court of such county asking a submission of the question whether such bonds shall be issued. The county court shall direct the officers of election in such county to open a poll at the next regular election held in such county in not less than sixty days after the filing of such petition for the purpose of ascertaining the will of the voters of such county upon the question as to whether or not they desire to have any such bonds issued.

The county court shall direct the sheriff of the county to advertise said election, and the object thereof, for at least thirty days next before the day thereof in some newspaper having the largest circulation in the county, and also by printed handbills posted up at not less than four public places in each voting precinct in the county, and at the court house door.

All legal voters of such county shall be privileged to vote at said election. The same officers that hold the regular election shall hold this election, which shall, in all respects, be held in accordance with the general election laws of the State. The question:

Are you in favor of issuing bonds to the amount of ——— for the purpose of constructing turnpike or gravel roads in this county?" being printed on the ballot, as provided for in the general election laws, section 1459, Kentucky Statutes.

If two-thirds of the legal voters, voting on said proposition, vote in favor of the proposition, then the fiscal court of said county shall issue bonds as provided herein.

Sold for par value and interest.

§ 2. The fiscal court of such county shall have full power and authority to sell, dispose of and deliver said bonds to the purchaser thereof, in such manner and at such time or times as it may deem proper through or by a commissioner appointed by the court; *Provided*, None of said bonds shall be sold for less than their par value and accrued interest.

Bond required of commissioner.

§ 3. The commissioner appointed by the court to sell, dispose of and deliver said bonds, shall, before proceeding to act as such, be first duly sworn to faithfully discharge his duties; and shall also execute bond in said court, with good and sufficient surety or sureties, to be approved by the court, for a faithful performance of his duties, and that he will pay over, in due time, to the proper person, any money received by him from the sale of said bonds. He shall sell said bonds to the highest and best bidder, after advertisement of the proposed sale for not less than four weeks in such paper or papers, as said court shall direct. The court shall make a suitable allowance to the commissioner for his services.

Duties of commissioner.

§ 4. Said court may deliver said bonds to the said commissioner at such time and in such number and amount as it may deem proper, and he shall sell and dispose of same as the court may direct, and pay over the money received by him to the person ap-

pointed by the court to receive same. Said commissioner shall keep an accurate list of the number, date and amount of bonds sold by him, and to whom sold, time due, and amount and number unsold, if any, and shall make to the court a full and complete report of his acts in the premises.

Receiver and treasurer.

§ 5. The said court may appoint some suitable person receiver and treasurer, to receive from said commissioner the money arising from the sale of the aforesaid bonds, and to pay out same as the court may direct. That said receiver and treasurer, before he proceeds to act as such, shall execute bond in said court, with sufficient surety or sureties, to be approved by the court, for a faithful discharge of his duties, and that he will pay to the proper person, as directed by the court, any money in his hands; and he shall be duly sworn to faithfully perform his trust as receiver and treasurer, and shall keep an accurate statement of all money received and paid out by him, and shall make a full settlement of his accounts and vouchers whenever required to do so by the said court; and the court shall make a suitable allowance to such receiver and treasurer for his services.

Redemption of bonds.

§ 6. That for the purpose of raising the money to pay the interest on the aforesaid bonds, and to finally redeem and pay off same, the said court may annually levy an ad valorem tax on all the taxable property of the county, sufficient for the purpose of paying said interest on said bonds and of creating a sinking fund for the ultimate redemption of such bonds when due; and said sinking fund shall be held and kept sacredly for that purpose and no other, but such tax shall not exceed fifty cents on each $100 worth of said property.

§ 7. The tax provided for in the next preceding section shall be collected by the sheriff or collector of revenue at the same time the State revenue is collected, and he shall be liable therefor on his county revenue bond; and for collecting same he shall be allowed the same commission allowed by law for collecting the other county revenue. Tax collected by sheriff.

§ 8. The tax herein provided for may be levied at any time during the year, and the county judge shall at any time call the court of claims or fiscal court together for that purpose when necessary. Levy of tax.

§ 9. If any officer wilfully fail to perform his duty as herein directed, he shall be deemed guilty of misfeasance in office, and shall be fined not exceeding one hundred dollars on conviction under indictment by a grand jury of the county. Officer failing to do duty—penalty.

Approved March 22, 1904.

CHAPTER 78.

AN ACT to amend an act, entitled "An Act to amend and re-enact section 1, chapter 31 of an act, entitled An Act providing for the creation of and regulation of private corporations," approved March 21, 1896, and being section 603 of the Kentucky Statutes, approved March 15, 1898.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. Any number of persons not less than seven may associate to establish a corporation for the purpose of conducting a trust business under the provisions of this article, but the capital stock of any such company shall not be less than fifteen thousand dollars in counties having a population of over twenty-five Capital required.

thousand and less than forty thousand, and not less than one hundred thousand dollars in counties having a population of over forty thousand and less than one hundred thousand and not less than two hundred thousand dollars in counties having a population of over one hundred thousand, *Provided*, That where in any county having a population of twenty-five thousand or more, there is a city of the fourth, fifth, or sixth class, a trust company may be organized in either of such cities, in said county, with a capital stock of not less than twenty-five thousand dollars, and a statement of any increase or reduction in the capital stock shall be signed and acknowledged by the president and a majority of the directors, and filed and recorded in the same manner as articles of incorporation.

§ 2. All acts, or parts of acts, in conflict herewith are hereby repealed.

§ 3. On account of the necessity and the great demand for the organization of trust companies at the present time, and the benefit to be derived by the public in general from same, an emergency is hereby declared, and this act shall take effect and be in force, from and after its passage and approval by the Governor.

Approved March 22, 1904.

CHAPTER 79.

AN ACT to perpetuate testimony, relative to the title to lands or real estate of any kind or the possession of same.

WHEREAS, There is in the State of Kentucky, and especially in the eastern part thereof, a vast quantity of land, the title to which is held by possession or occupancy; and

WHEREAS, In many cases the parties knowing the history and facts connected with the possession or occupancy of said land and the title thereto, are old and liable to pass away, leaving behind no record of the facts within their knowledge; therefore, to perpetuate the evidence or testimony of any and all witnesses relative to real estate, or the title thereto about which there is now or may hereafter be a controversy or dispute.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

To perpetuate testimony.

§ 1. That any and all parties who are the owners of, or may hereafter become the owners of, any land, mineral, oils, gases, timber or any interest of real estate, or the appurtenances thereunto belonging or in anywise appertaining, about which there may arise or has arisen any controversy or dispute, may perpetuate the testimony of any and all living witnesses relative to their said title in the following manner, to-wit:

First. That the party desiring to perpetuate any testimony as aforesaid shall file in the circuit court clerk's office in the county where the real estate is situate, a statement directed in the caption thereof, if known to him, to any party or parties who may be interested, or claim to be interested in said real estate

giving the names and addresses, if known, of such claimants or probable claimants, and if non-resident of this State, giving the name and address of such non-resident and State or county in which he resides if known, and if any such claimant or probable claimant be an infant a lawyer guardian ad litem, shall be designated to represent such infant, by the clerk of the court, and an attorney shall by said clerk be appointed to represented such non-resident interested parties, claimants or probable claimants, the same lawyer may be appointed to represent as attorney, and guardian ad litem non-resident parties whether infants or not.

If one or more of the said parties are unknown to him, he shall give to the parties known to be interested, with the statement in said caption, "to whom it may concern, and to all parties interested in the real estate herein described." If no one, to his knowledge, is interested in the said real estate, the said statement shall be directed, "to any and all parties interested in following described real estate," setting forth by description the real estate about which testimony is to be taken for the purpose of perpetuating the same in accordance with this act. Said statement shall also set forth the time and place said depositions shall be taken and the names of one or more witness whose testimony or evidence is to be taken at the time stipulated in said statement. The said statement shall set forth that he has a title to said real estate about which testimony or evidence he desires to take, and the same subscribed and verified by the party filing the same or by his attorney, representative or agent. The said statement shall be filed before the notice shall be given as hereinafter provided. It shall be the duty of the circuit court clerk, upon the filing of the statement aforesaid, to mark the

same "filed," and record it in a book kept by him for that purpose, properly labeled and indexed, for which recording he shall receive a fee of $1.00.

Taking depositions.

Second. The party or parties desiring to take the deposition of any witness shall give ten days' notice in writing to any and all parties known to him to be interested in said land, or is setting up or attempting to set up, claim to said land, mineral, oils, gases, timber or any other interest to the said real estate, stating the time and place the said depositions will be commenced to be taken, and that the same will be continued from day to day, at the same place and between the hours of 8 a. m. and 6. p. m., until the same is completed, and that said depositions is to be taken in behalf of the title to a certain tract of land known as tract, lying on the (here give the local description), in county, in the State of Kentucky, and that the said depositions are being taken for the purposes of perpetuation of the testimony expected to be given, and he shall give further notice as above recited, by having the same published in some newspaper of general circulation published in the county where the real estate lies, at least four weeks, if it be a weekly newspaper, or fifteen days if said paper be a daily paper, if there be a weekly or daily newspaper so published in said county, and by having a like notice posted at the front door of the court house in the county where said real estate is situate, at least fifteen days before the taking of said depositions. If there be no paper published in the county in which such proceeding is filed, printed or written notices shall in addition to the actual notices served on the known parties as herein provided, be posted on the front door of the court house, one at public place on the real estate involved, two at public places in the neighborhood there-

of and at six other public places in the county, provided that 60 days' notice shall be given to non-residents of the time of taking of such depositions unless they waive such notice through their attorney or otherwise, and it shall be the duty of the attorney or guardian *ad litem* for such infants and attorney for non-residents shall; so soon as certified of their appointment to in writing, if possible, notify the infants and non-residents whom he represents of the fact and nature and purpose of such proceeding, and if no one other than himself appear to represent by special employment those whom he was appointed to represent, he shall appear and, if necessary, cross-examine and do all necessary to protect the interest of his ward or non-resident claimant against any fraud imposition or injury, and said attorney shall file with said clerk a written report showing what effort he made to give such notice to his ward or non-resident party, and state what if any, information he has received from them, and such guardian *ad litem* and attorney for non-resident parties or claimants and probable claimants shall be allowed a reasonable sum for his services to be paid by the party seeking to perpetuate the evidence.

Certified to clerk.

Third. When the said depositions are completed, subscribed by the witness, the same shall be certified to the circuit court clerk of the county where the said real estate is situate, by the officer before whom the same were taken, in the same manner as depositions are now certified, and said officer shall take said clerk's receipt therefor.

Recorded.

Fourth. The said clerk, upon receipt of the said deposition, shall immediately mark the same "lodged in my office to be recorded" and give the date of such lodgment, and record the said depositions in a book he shall keep for that purpose, properly labeled and in-

dexed, and upon application deliver to the party on whose behalf the depositions were taken, the original of said deposition for which recording he shall be allowed the sum of $1 for each separate deposition.

Fifth. The original or certified copy of said deposition or of said record shall be evidence in any and all courts of this Commonwealth, having, or which may hereafter have, competent jurisdiction of the subject matter in controversy. Certified copy—evidence.

Approved March 22, 1904.

CHAPTER 80.

AN ACT to appropriate twelve hundred three hundred and fifty-seven and $\frac{64}{100}$ dollars for the benefit of the Houses of Reform.

WHEREAS, The Board of Trustees of the Kentucky Houses of Reform have found it necessary, in order to care for the inmates placed in their charge, to create an indebtedness of $12,357.64, by reason of the following causes:

Expense incurred in rebuilding and furnishing building destroyed by fire in excess of insurance received for same; furnishings consisting of beds, bedding, furniture, clothing, school desks and books, ranges, dishes etc.; no provision for premium on insurance policies; epidemic of measles, mumps, typhoid fever, without hospital; extension of tunnel from power house to Bradley cottage and insufficient per capita and salary appropriations; the funds of the institution are received quarterly, therefore is always three months in arrears.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Appropriation for House of Reform.

§ 1. That the sum of twelve thousand three hundred and fifty-seven and $\frac{64}{100}$ dollars be, and hereby is dollars be, and hereby is appropriated out of any sums in the State Treasury not otherwise appropriated for the purpose of paying the deficit created by the board of trustees of the houses of reform in the manner herein set forth.

Approved March 22, 1904.

CHAPTER 81.

AN ACT to provide for the renewal of franchises for furnishing public utilities in cities of the first class.

WHEREAS, Under section 164 of the present Constitution, no public utility except a trunk line railroad, can acquire a franchise for a longer period than twenty years, and whereas, no provision has yet been made by law for the renewal of franchises after they have expired therefore.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Sale of franchise to highest bidder.

§ 1. That eighteen months before the expiration of any franchise, acquired under, or prior to the present Constitution, it shall be the duty of the proper legislative body or boards to provide for the sale of a similar franchise to the highest and best bidder, on terms and conditions, which shall be fair and reasonable to the public, to the corporation, and to the patrons of the corporations.

Provided, That if there is no public necessity for the kind of public utility in question, and, if the munici-

pality shall desire to discontinue entirely the kind of service in question, then this section shall not apply.

Municipality on public account.

§ 2. If the municipality shall desire to own or operate on public account, the utility in question, and shall take the steps necessary thereto within two years after the passage of this act, or within two years before the expiration of the franchise, and shall offer to purchase at a fair valuation, the plant of the company which is then rendering the service, then the municipality shall be under no obligation, by reason of this act, to sell or renew or to continue the franchise in question.

How value of plant determined.

§ 3. The fair valuation of the plant shall be determined by three persons; one to be selected by the municipality, one to be selected by the owners of the plant to be valued, and the third to be selected by these two. The plant shall be valued as a going concern, but no allowance shall be made for future growth.

Requirements of bidder.

§ 4. The terms and conditions mentioned in section one of this act shall specify the quality of service to be rendered and the price which shall be charged for the service.

Each person desiring to bid for such franchise shall first deposit with the proper officer of the municipality cash or duly certified check, equal to five per cent of the fair estimated cost of the plant required to render the service, which check or cash shall be forfeited to the municipality in case the bid should be accepted and the bidder should fail, for thirty days after the confirmation of the sale to pay the price bid and to give a good and sufficient bond, in a sum equal to one-fourth of the fair estimated cost of the plant to be erected. Said bond shall be so conditioned that it shall be enforcible, in case the party giving it shall fail, within a reasonable time, to establish a suitable plant for rendering the service

and begin rendering the service in the manner set forth in the said terms and conditions.

Exclusive privilege not acquired.

§ 5. No exclusive privilege shall be acquired under this act, nor shall the sale of a franchise to one person or corporation prevent subsequent sale of a similar franchise to another person or corporation.

§ 6. This act shall apply only to cities of the first class.

Approved March 22, 1904.

CHAPTER 82.

AN ACT to prevent the adulteration, mixing and misbranding of orchard grass, seed and other seeds, and fixing a punishment therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Misdemeanor to sell or offer for sale adulterated, mixed or misbranded orchard grass, etc.

§ 1. That the selling, offering or exposing for sale, of any orchard grass, Kentucky bluegrass, red clover, mammoth clover or alfalfa seeds which are mixed, adulterated or misbranded, within the meaning of this act, is hereby prohibited, and any person who shall sell, offer or expose for sale any such seeds which are mixed, adulterated or misbranded and known by the persons offering, selling or exposing same for sale, to be so mixed adulterated and misbranded, and done with fraudulent intent within the meaning of this act, shall be guilty of a misdemeanor and for such offense shall be fined not less than twenty-five dollars, nor more than one hundred dollars for the first offense, and for each subsequent offense not more than two hundred dollars, or be imprisoned six months, or both in the discretion of the court.

Duty of director of Kentucky Experimental Station.

§ 2. That the Director of Kentucky Experimental Station, shall make, or cause to be made, under rules and regulations to be prescribed by him, examinations of specimens of the seeds of orchard grass, Kentucky bluegrass, red clover, mammoth clover or alfalfa offered for sale, which may be collected from time to time in various parts of the State. If it shall appear from any such examination that any of the provisions of this act have been violated the Director of Kentucky Experimental Station shall at once certify the facts to the proper Commonwealth's attorney, with a copy of the results of the analysis, duly authenticated by the analyist under oath.

Commonwealth's attorney to commence proceedings.

§ 3 That it shall be the duty of every Commonwealth's attorney, to whom the Director of Kentucky Experimental Station shall report any violation of this act, to cause proceedings to be commenced and prosecuted without delay for the fines and penalties in such cases provided.

DEFINITIONS.

Definitions.

§ 4. Mixing and adulterating that for the purposes this act seed shall be deemed to be mixed or adulterated:

1. When orchard grass (Dactylis Glomerata) seed contains five per cent, or more by weight of meadow fescue (Festuca elatior pratensis), English rye grass (Lolium perenne), or Italian rye grass (Lolium italicum) seed.

2. When Kentucky bluegrass seed (Poa pratensis), also known as bluegrass seed, contains five per cent, or more by weight of Canada bluegrass (Poa Compressa) seed.

3. When red clover (Trifolium pratense), also known as clover, common red clover, June clover, small

red clover, and medium red clover, mammoth red clover (Trifolium pratense var.), also known as sapling clover and peavine clover, or alfalfa (Medicago Sativa) seed contains five per cent, or more by weight of yellow trefoil (Medicago lupulina), or sweet clover (Melilotus alba or melilotus officinalis) seed.

The provisions of this act shall not apply, however, to mixed seeds when the packages are plainly marked with the correct per centage of weight and the name of the kinds of seeds composing the mixture. Nor to the growers' of seeds who, in good faith, have offered seeds for sale grown by them and which may be found to contain foreign seed.

MISBRANDING.

That seed shall be deemed to be misbranded.

1. When meadow fescue, English rye grass or Italian rye grass seed is labelled or sold under the name of orchard grass seed.

2. When Canada bluegrass seed, red top seed or any other seed not bluegrass seed is labeled or sold under the name of Kentucky bluegrass or bluegrass seed.

3. When yellow trefoil or sweet clover seed is labelled or sold under the name of clover, red clover, common red clover, June clover, small red clover, medium red clover, mammoth red clover, sapling clover, peavine clover or alfalfa seed.

§ 5. That any person who sells, offers or exposes for sale, any Kentucky bluegrass, red clover, mammoth clover or alfalfa seeds which are mixed, adulterated or misbranded, within the meaning of this act, shall forfeit the same, and they shall be seized by the sheriff or constables of any county in which such seizure was made.

§ 6. That this act shall take effect and be in force from and after its passage.

Approved March 22, 1904.

CHAPTER 83.

AN ACT to amend section 1 of an act, entitled "An act for the benefit of the counties of this Commonwealth, empowering them or any of them to issue new bonds and levy and collect taxes to pay the same for the purpose of refunding the old bonds of the counties respectively," approved August 16, 1892, and being section 1852 of the Kentucky Statutes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That section one of an act, entitled "An act for the benefit of the counties of this Commonwealth, empowering them, or any of them, to issue new bonds and levy and collect taxes to pay the same, for the purpose of refunding the old bonds of the counties respectively, approved August 16, 1892, and being section 1852 of the Kentucky Statutes, be amended by striking out the words "prior to the twenty-eighth day of September, one thousand eight hundred and ninety one," so that said section, as amended will read as follows:

Counties given right to substitute new for old bonds. Fiscal court to determine when to be issued, except—

§ 1. That any of the counties of this Commonwealth, through, and by the fiscal courts of the respective counties are authorized and empowered to call in any of their outstanding bonds matured or subject to call legally issued, for railroad purposes or otherwise, and issue and substitute therefor new bonds of such county, not exceeding the amount of such old bonds and interest then outstanding; the new bonds to be of such denominations as the respective fiscal courts may

deem best, and payable at such time, not exceeding forty years, as the fiscal courts may think proper, and bearing any rate of interest not exceeding six per cent. per annum, payable semi-annually with interest coupons attached, the bonds and coupons to be payable to bearer, and to be serially numbered, the bonds to be signed by the county judge and county court clerk, with the seal of the county attached, and the coupons to be signed by the county clerk alone (or his signature may be lithographed); said bonds and coupons at maturity to be payable at such place or places, specified in the bonds, as the fiscal courts of the respective counties may determine; and the fiscal court is hereby authorized and empowered to sell such new bonds at not less than par, and apply the proceeds thereof in payment of the old bonds on outstanding indebtedness of such county, or the new bonds may be exchanged at not less than their par value for such old bonds, but the said new bonds or the proceeds of the sale thereof shall only be used for the purposes of liquidating the old outstanding bonds and interest thereon then owing by such county, and the cost and expensé of such liquidation; and the county court clerk shall keep a record in his office of all bonds issued under this act, showing the date, numbers and amount of such bonds, where payable; the amount and the number of coupons attached to each bond, also the numbers, date and amount of the bonds exchanged for other bonds of the county; and in the event any bonds are sold and the proceeds applied in liquidation of the old bonds of the county, the record shall show the date, numbers and amount of bonds sold, and to whom, and the bonds and taken up and cancelled by exchange or payment, which record shall be open at all times to the inspection of the tax-payers of the county. But before the fiscal court of any county shall

call in any bonds issued on account of any donation or subscription to the capital stock of any railroad company, and issue new bonds to be exchanged therefor under the provisions of this act, and before such fiscal court shall issue any bonds under this act to be sold for the purpose of obtaining money with which to pay off any bonds or coupons issued for railroad purposes as mentioned herein, such fiscal court shall cause notice of such contemplated action on its part to be published in four consecutive weekly issues of the newspaper published in the county having the greatest circulation in such county, and by printed posters setting forth such contemplated action, posted at the most public place in each voting precinct of the county for at least thirty days before said court proposes to take such action, and in case there is no newspaper published in such county, then such court shall cause printed posters, setting forth such contemplated action and the date thereof, to be posted at the five most public places in each voting precinct in the county for thirty days next before such action is proposed to be taken. If, on or before the day such action is proposed to be taken by said court, a petition signed by three hundred voters of such county be filed with the county judge, requesting that the question as to whether said fiscal court shall take such proposed action, be submitted to the legal vaters of said county, then said fiscal court shall not take such action at the time proposed, nor until a majority of the legal voters of said county voting at the election on said question shall have voted in favor thereof. On the receipt of such petition, the county judge shall file it, and thereupon cause an order to be entered upon the order book of his county, directing the sheriff to open a poll at each voting place in the county to take the sense of the legal voters on said question, at an election to be

held at a time to be stated in the order entered by the county judge, which shall not be earlier than thirty days after the date of said order made by the county judge, and which shall be held at the time provided by the laws and Constitution of this Commonwealth, and said election shall be conducted and the result ascertained in the same manner and by the same officers provided for the conducting general elections and ascertaining the results thereof. If a majority of the votes cast at said election shall be in favor of such proposed action by the fiscal court, then said fiscal court shall, as soon as practicable thereafter, take the proposed action. If the majority of the votes cast on said question shall be found to be against such proposed action by the fiscal court, then said court shall not take such proposed action.

Approved March 22, 1904.

CHAPTER 84.

AN ACT to amend an act, entitled "An Act regulating the sale of fertilizers in this Commonwealth," approved March 2, 1900.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Sale of fertilizers.

§ 1. That section two, of an act entitled, "An act regulating the sale of fertilizers in this Commonwealth," approved March 2, 1900, be stricken out and the following inserted in lieu thereof:

"The director of said experiment station, upon receipt of affidavit and sample as provided for in section one, and upon receipt of the fees hereinafter provided, shall issue to said person or company a sufficient number of labels, to tag not less than twenty (20) tons of said fertilizer, in which label shall be printed the name

and address of the manufacturer, the name of the fertilizer, the number of net pounds in each package, the date of said analysis, the estimate value per hundred of the fertilizer, and the minimum percentage composition in terms approved by the said director, as certified to in affidavit furnished by said person or company, together with a certificate from the director over his fac simile signature, authorizing the sale of such package according to the provisions of this act."

Approved March 22, 1904.

CHAPTER 85.

AN ACT to prohibit white and colored persons from attending the same school.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Fine of $1,000 for operating a school of whites and negroes.

§ 1. That it shall be unlawful for any person, corporation or association of persons to maintain or operate any college, school or institution where persons of the white and negro races are both received as pupils for instruction; and any person or corporation who shall operate or maintain any such college, school or institution shall be fined one thousand dollars, and any person or corporation who may be convicted of violating the provisions of this act, shall be fined one hundred dollars for each day they may operate said school, college or institution, after such conviction.

Instructor subject to fine.

§ 2. That any instructor who shall teach in any school, college or institution where members of said two races are received as pupils for instruction shall be guilty of operating and maintaining same and fined as provided in the first section hereof.

Unlawful to attend such school. $50 fine for each day's attendance.

§ 3. It shall be unlawful for any white person to attend any school or institution where negroes are received as pupils or receive instruction, and it shall be unlawful for any negro or colored person to attend any school or institution where white persons are received as pupils or receive instruction. Any person so offending shall be fined fifty dollars for each day he attends such institution or school: *Provided,* That the provisions of this law shall not apply to any penal institution or house of reform.

Separate branch allowed.

§ 4. Nothing in this act shall be construed to prevent any private school, college or institution of learning from maintaining a separate and distinct branch thereof, in a different locality, not less than twenty-five miles distant, for the education exclusively of one race or color.

§ 5. This act shall not take effect, or be in operation, before the fifteenth day of July, one thousand nine hundred and four.

Approved March 22, 1904.

CHAPTER 86.

AN ACT to amend "An Act to provide for the organization of eleemosynary and educational institutions," approved March 22, 1892.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Organization of eleemosynary and educational institutions.

§ 1. That section 4 of an act entitled, "An act to provide for the organization of eleemosynary and educational institutions," approved March twenty-second, eighteen hundred and ninety-two, be and the same is, amended by adding thereto the following words, namely:

"And whereas, there are now in existence in this

Commonwealth numerous corporations, associations or societies, heretofore created for the cultivation and diffusion of knowledge by maintaining free reference libraries, circulating libraries or popular lectures, or by collecting materials for the illustration of the various branches of useful knowledge, or by other means, and,

"WHEREAS, It may become desirable for the cities or towns in which such corporations are located to establish and maintain similar institutions for the free use and benefit of all the residents thereof, and,

"WHEREAS, In the charters of said corporations, associations or societies, it is provided that, in case said charter or corporation shall lapse from non-user or other cause, any property that may be owned by the corporation shall escheat to the Commonwealth of Kentucky and pass under the supervision of the State Librarian, and doubt may arise whether such corporation has power or authority to transfer its property to any such city or town, therefore, any corporation, association of society, heretofore created for the circulation and diffusion of knowledge by maintaining free reference libraries, circulating libraries or popular lectures, or by collecting materials for the illustration of the various branches of useful knowledge, is hereby authorized and empowered upon the majority vote of its members present voting at a regular meeting or a meeting called for the purpose of considering the subject, to transfer or convey to the city or town in which the same is located, to be used by said city or town for library or educational purposes, for the benefit of all the people of said city or town, with such additional conditions as may be agreed upon by such corporation, association or society, and it shall be lawful to incorporate in such agreement conditions securing

the right to nominate or appoint on the Board of Trustees a given number of the directors of trustees in the corporation with which such agreement may be made, and such city or town, all or any part of the property, real, personal and mixed, owned or held by said corporation, association or society, and title thereto, may be vested in said city or town or in any corporate department or branch thereof; but nothing herein contained shall be construed so as that a transfer of its property, as herein above provided, shall operate as a dissolution of any such corporation, association or society, or to terminate its existence, but the same may continue its corporate existence for any of the purposes within the purview of its charter or articles of incorporation." So that said section, when amended, shall read as follows, to-wit:

§ 4. Existing corporations, associations or societies heretofore incorporated or chartered, and not operated, managed or used for private profit, and such as may become organized under this act, may, by the consent of two-thirds of the directors, managers or trustees amend any of the charters or articles of incorporation by filing and recording the amendment in the manner herein provided for filing and recording original articles; and,

"WHEREAS, There are now in existence in this Commonwealth numerous corporations, associations or societies heretofore created for the cultivation and diffusion of knowledge by maintaining free reference libraries, circulating libraries, or popular lectures, or by collecting materials for the illustration of the various branches of useful knowledge, or by other means; and,

"WHEREAS, It may become desirable for the cities or towns in which such corporations are located, to es-

tablish and maintain similar institutions for the free use and benefit of all the residents thereof; and,

"WHEREAS, In the charters of said corporations, associations or societies it is provided that, in case said charter or corporation shall lapse from non-user or other cause, any property that may be owned by the corporation shall escheat to the Commonwealth of Kentucky and pass under the supervision of the State Librarian, and doubt may arise whether such corporation has power or authority to transfer its property to any such city or town, therefore, any corporation, association or society, heretofore created for the circulation and diffusion of knowledge by maintaining free reference libraries, circulating libraries, or popular lectures, or by collecting materials for the illustration of the various branches of useful knowledge, is hereby authorized and empowered, upon the vote of a majority of its members present and voting, at a regular meeting, or at a meeting called for the purpose of considering the subject, to transfer or convey to the city or town in which the same is located to be used by said city or town for library or educational purposes for the benefit of all the people of said city or town, with such additional conditions as may be agreed upon by such corporation, association or society, and it shall be lawful to incorporate in such agreement conditions securing the right to nominate or appoint on the Board of Trustees a given number of the directors or trustees in the corporation with which such agreement may be made, and such city or town, all or any part of the property, real, personal and mixed, owned or held by said corporation, association or society, and title thereto may be vested in said city or town or in any corporate department or branch thereof; but nothing herein contained shall be construed so as that a transfer of its property, as hereinabove provid-

ed, shall operate as a dissolution of any such corporation, association or society, or to terminate its existence, but the same may continue its corporate existence for any of the purposes within the purview of its charter or articles of incorporation."

§ 2. In view of the fact that one or more of the existing institutions affected by this act desire to proceed at once under its provisions, therefore an emergency exists, and this act shall take effect from its passage.

Approved March 22, 1904.

CHAPTER 87.

AN ACT to amend section 25, of article 10, of an act relating to revenue and taxation, which became a law on the 29th day of March, 1902.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Licenses for hotels, taverns, etc.

§ 1. That section 25 of article 10, of an act relating to revenue and taxation, which became a law on the 29th day of March, 1902, be, and the same is, hereby amended, so that said section, as amended and re-enacted, shall read as follows, viz.:

"§ 2. Before engaging in any occupation, or selling any article named in this subdivision three, of article 10 of this act, the person desiring to do so, shall procure license, and pay the tax thereon as follows:

To keep a tavern or hotel with twenty-five or more rooms, ten dollars.

To keep a tavern or hotel, with privilege of selling by retail malt liquors, sixty dollars.

To keep a tavern or hotel, with privilege of selling

y retail spirituous and vinous liquors, one hundred nd ten dollars.

To keep a tavern or hotel, with privilege of selling by etail, spirituous, vinous and malt liquors, one hundred nd sixty dollars.

To retail malt liquors, fifty dollars.

To retail spiritous and vinous liquors, one hundred ollars.

To retail spirituous and vinous and malt liquors, ne hundred and fifty dollars.

To selling by retail, playing cards, ten dollars.

To selling by retail, pistols, one hundred dollars.

To selling by retail, bowie knives, dirks, brass-knucks or slug-shots, one hundred dollars.

To engage in the business of a pawnbroker, five undred dollars.

That all resident or foreign trading stamp companies or corporations, doing business in this State, shall annually pay a license tax to the county court clerk of each county wherein such business is conducted, ten dollars.

A trading stamp company is defined to be a company that gives premiums of valuable personal property in exchange for stamps or checks furnished to purchasers of merchandise.

§ 3. This act shall take effect and be in full force and effect from and after its passage and approval.

Approved March 22, 1904.

CHAPTER 88.

AN ACT to amend section 32, of article 9, of an act, entitled "An Act for the government of towns of the sixth class," approved May 6, 1893.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section 32 of article 9 of an act entitled, "An act for the government of towns of the sixth class," approved May 6, 1893, be, and the same is, hereby amended, so that said section, as amended and re-enacted, shall read as follows:

§ 2. The Board of Trustees shall have power, and it shall be their duty, to provide, by ordinance, a system for the assessment, levy and collection of all town taxes, not inconsistent with the provisions of this chapter, which system shall conform, as nearly as the circumstances of the case may permit, to the provisions of the laws of this State in reference to the assessment, levy and collection of State and county taxes. All taxes assessed, together with any percentage imposed for delinquency and the cost for collection, shall constitute liens on the property assessed, from and after the fifteenth day of September in each year, which liens may be enforced by a summary sale of such property, and the execution and delivery of all necessary certificates and deeds therefor, under such regulations as may be prescribed by ordinance, or in the manner provided for the collection of State taxes, or by action in any court of competent jurisdiction to foreclose such liens. If the Board of Trustees deem it preferable, they may place the tax bills for the taxes levied and assessed as herein provided, in the hands of the sheriff for collection instead of having a local tax collector for that purpose,

and it shall then be the duty of the sheriff of the county to collect such taxes, upon the advice of the Board of Trustees that the taxes have been levied and the amount to collect. The sheriff shall collect said tax at the same time, and have the same powers he has in the collection of State and county taxes. He shall make monthly settlements, not later than the tenth of each month, with the town treasurer for the taxes so collected. *Provided,* That any property sold for such taxes shall be subject to redemption within the time and in the manner provided by law for the redemption of property sold for State or county taxes. All deeds made upon any sale of property for taxes, or special assessments under the provision of this chapter, shall have the same force and effect as it may hereafter be provided by law for deeds for property sold for non-payment of State or county taxes.

Approved March 22, 1904.

CHAPTER 89.

AN ACT to establish a State Board of Embalming, defining the duties thereof, to provide for the better protection of life and health, and to prevent the spread of contagious diseases, to regulate the practice of embalming in connection with the care and disposition of the dead, and to provide a penalty for the violation thereof.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That there is hereby established and created a board to be known as the State Board of Embalming of Kentucky. That said Board shall consist of five members to be appointed by the Governor, and all vacancies occurring on the Board shall be filled by the Governor

Amendment.

for the unexpired term. Each member of said Board shall serve for a term of four years from the date of his appointment going into effect, except those first appointed, who shall serve as follows: One for one year; one for two years; one for three years, and two for four years. The Governor shall designate the number of years each of those first appointed shall serve. They shall be residents of the State of Kentucky, each of whom shall have had at least five years' experience in the practice of embalming and the care of and disposition of dead human bodies in this State. All eligible for re-appointment. The Governor shall remove from office any member of said Board for neglect of duty, incompetency or improper conduct.

Appointment of board.

§ 2. That said Board shall be appointed on or before the first day of June, 1904, and all vacancies occurring thereafter by the expiration of their respective terms of office shall be filled annually thereafter on the aforesaid date to be selected from three names to be furnished yearly by the Funeral Directors' Association of Kentucky.

Certificate of appointment.

§ 3. The Governor shall furnish each person appointed to serve on the State Board of Embalming a certificate of appointment, and such appointee shall qualify by taking the usual oath of office before any officer authorized by law to administer oaths in this State within ten days after said appointment has been made, and this fact shall be noted on the certificate of appointment and shall be filed with the Board of Embalmers.

Powers and duties of board of embalming.

§ 4. That for the purpose of carrying out the objects of this act, which is fully set out in the title thereof, the said Board of Embalming shall have the power, and it shall be its duty:

1. To prescribe a standard of efficiency as to the

qualifications of those engaged and who may engage in the practice of embalming, in connection with the care and disposition of dead human bodies in this State.

2. To meet at least once in each year and oftener as the proper and efficient discharge of its duties may require. The secretary of said Board shall mail notices to all undertakers in this State known to him, at least fifteen days before any embalmers examination is to be held by said Board, advising them of the time and place where such examination is to be conducted. All notices required to be mailed shall be directed to the last known post office address of the party to whom the notice is sent.

3. To elect at the first meeting of the Board a president and a secretary from the members of said Board, who shall serve for one year or until their successors shall be elected and qualified.

4. To adopt a common seal.

5. To adopt rules and regulations and by-laws from time to time, not inconsistent to the laws of this State, or of the United States, whereby the performance of all the duties of said Board and the practice of embalming dead human bodies shall be regulated.

First meeting--quorum.

§ 5. The first meeting of the Board shall be held on the second day of July, 1904, or as soon thereafter as may be practicable; three members shall constitute a quorum.

President to administer oath.

§ 6. The president of said Board, and in his absence, a president *pro tempore,* elected by the members present, is hereby authorized to administer oaths to witnesses testifying before said Board.

Qualification.

§ 7. No person shall be granted a license under this act who has not attained the age of at least twenty-one years, and who has not practiced embalming dead human bodies for at least three years, or shall have at

least three years practical instruction in embalming and disinfecting under a licensed embalmer.

Requirements and qualifications to practice.

§ 8. From and after the first day of July, 1904 every person at that time engaged, or desiring to engage in the practice of embalming dead human bodies within the State of Kentucky, shall make a written application to the State Board of Embalming for a license, accompanying the same with the license fee of five dollars whereupon the applicant as aforesaid shall present himself or herself before said Board at a time and place to be fixed by said Board, and if the Board shall find upon due examination, that the applicant is of good moral character, possessed of skill and knowledge of said science of embalming and the care and disposition of the dead, and has a reasonable knowledge of sanitation and the disinfection of bodies of deceased persons and the apartment, clothing and bedding in case of death from infectious or contagious diseases, the Board shall issue to said applicant a license to practice said science of embalming and the care of and the disposition of the dead, and shall register such applicant as a duly licensed embalmer. Such licenses shall be signed by a majority of the Board and attested by its seal. All persons receiving a license under the provisions of this act shall have said license registered in the office of the Board of Health of the city, and where there is no Board of Health, with the clerk of the town or county court in the jurisdiction of which it is proposed to carry on said practice, and shall display said license in a conspicuous place in the office or place of business of such licentiate.

License not transferable.

§ 9. No license shall be issued or renewed for a period exceeding one year, and all licenses and renewals thereof shall expire and terminate the 31st day of July following the date of their issue, unless sooner revoked

and cancelled. A license granted under this act shall not be transferable.

Renewal of license.

§ 10. Every registered embalmer who desires to continue the practice of his profession shall annually during the time he shall continue in such practice have such license renewed by making and filing with the secretary of said Board an application thereof within thirty days preceding the expiration of his license upon blanks prescribed by the said Board and upon payment of two dollars renewal fees.

Cancellation of license.

§ 11. The State Board of Embalming may, upon sufficient proof of the violation of any of the provisions of this act, or of the violation of any rule or regulation prescribed by the said Board for the preparation, embalming, shipping or burial of any dead human body, revoke and cancel the license held by any person so violating such provision, rule or regulation.

Expenses, salary, etc., paid from fees.

§ 12. All expenses, salary and per diem to members of this Board shall be paid from fees received under provisions of this act, and shall in no manner be an expense to the State. All moneys received in excess of said per diem allowance and other expenses provided for, shall be held by the secretary of said Board as a special fund for meeting the expenses of said Board.

§ 13. That on and after the first day of September, 1904, it shall be unlawful for any person not a registered embalmer, to embalm or pretend to practice the science of embalming in connection with the care and disposition of the dead, unless said person is a registered embalmer within the meaning of this chapter.

Application of act.

§ 14. Nothing in this act shall apply to or in any manner interfere with the duties of any officer of local or State institution, nor shall this act apply to any person engaged simply in the furnishing of burial re-

ceptacles for the dead, but shall only apply to such person or persons engaged in the business of embalming in connection with the care and disposition of the dead.

Penalty for violation.

§ 15. Any person who shall embalm or attempt to practice the science of embalming in connection with the care and disposition of the dead, without having complied with the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof before any court, shall be sentenced to pay a fine of not less than fifty dollars nor more than one hundred dollars for each and every offense.

§ 16. All fines collected for the violation of any of the provisions of this act shall be paid into the Public School Fund of this Commonwealth.

Approved March 22, 1904.

CHAPTER 90.

AN ACT to amend section 4310, of an act, entitled "Roads and Passways," approved March 10, 1894.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Appointment of overseers.

§ 1. That section 4310, under chapter 110, entitled, "Roads and Passways," be amended, in the fifteenth line of same by inserting the word "twenty-five," in lieu of the word "fifteen," and at the end of said section add the following: "Or upon indictment by the grand jury, and tried in the circuit court;" and when said section is so amended, it will read as follows:

"§ 4310. The appointment of overseers shall be, by order entered in the order book of the court; and the clerk of said court shall, within ten days after the entry aforesaid, deliver two copies of such order for each over-

seer to the sheriff, a constable, town marshal, or the jailer of said county, by whom one copy shall be delivered to the overseer named therein, within fifteen days thereafter. Said order shall contain a description of the precinct allotted to each overseer. The sheriff or other officer delivering such order shall return the other copy, with the endorsement of service to the county court. For each failure of said clerk, sheriff, or other officer to discharge the duties herein required, such officer shall be fined five dollars. The said overseers shall be exempt from service on juries and from poll-tax for road and bridge purposes; and for failure to perform the duties herein required of them shall, for each offense, be fined from five dollars to twenty-five dollars. The fines imposed under this section to be recovered on warrants issued by and tried before the judge of the quarterly court, or by indictment of the grand jury, and trial in the circuit court."

Approved March 22, 1904.

CHAPTER 91.

AN ACT to amend section two hundred and thirty-eight, of an act, entitled "An Act for the government of cities of the third class," approved June 14, 1893, being section 3477, Kentucky Statutes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Amends sections 3477 and 238 of Kentucky Statutes. Duties and term of board.

§ 1. That section two hundred and thirty-eight of an act entitled, "An act for the government of cities of the third class," approved June fourteenth, one thousand eight hundred and ninety-three, being section 3477 of the Kentucky General Statutes, be, and the same is hereby amended by striking out the words "at a salary,"

the following: "not exceeding one hundred dollars per annum," and inserting in lieu thereof the words, "to be fixed by the Board." So that when amended it shall read as follows:

"§ 238. Said Board of Education shall elect from its own number a president, for the term of two years, and may prescribe who shall preside in his absence, and make all necessary rules prescribing the duties of the presiding officer and the government of itself; and said Board shall also elect a secretary, at a salary to be fixed by the Board, whose duty it shall be to keep a record of the proceedings of all regular and special meetings, countersign all warrants and contracts, and whose term of office shall be two years."

Approved March 22, 1904.

CHAPTER 92.

AN ACT to prohibit fraudulent certification of land titles in this Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

When unlawful for clerk to certify.

§ 1. That it shall be unlawful for any county court clerk or other officer of this State, or of any county thereof, to officially certify to any abstract or statement of title to lands in this Commonwealth, where such lands are in the actual possession of another than the person or corporation shown to be the owner by said abstract or certificate, when such person in possession is claiming said lands under title adverse to that shown in such abstract or certificate.

When two or more patents have issued for the same

§ 2. If two or more patents have been issued for the same land, whether by this Commonwealth or by the

Commonwealth of Virginia, it shall be unlawful for any county court clerk or other officer of this State, or of any county thereof, to officially certify that the records show, or the fact to be, that said title is in either or any of said patentees, or in any person claiming under either or any of said patents.

Penalty.

§ 3. For each offense of the clerk or officer so certifying to such abstract shall, upon conviction, to be recovered by indictment or penal action, be fined not less than one hundred and not more than five hundred dollars. In addition thereto, such officer shall be liable personally and on his official bond to the person in possession of such lands, and to any and all other persons aggrieved thereby, to an action for damages sustained by such person or persons by reason of such certificate.

Approved March 22, 1904.

CHAPTER 93.

AN ACT to amend an act, entitled "An Act to amend an act, entitled an act to further regulate elections." approved October 24, 1900.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Amends act of 1900.

§ 1. That section 2 of an act entitled, "An act to amend an act, entitled An act to further regulate elections," approved October 24, 1900, be, and the same is, hereby amended by striking out of said section the words, "in counties where there is no sheriff or where from other causes the sheriff can not act, the circuit court clerk shall act in his place," where they appear immediately after the words, "as his predecessor," in the latter part of said section, and inserting in lieu thereof

the words, "in counties where there is no sheriff, and in counties containing cities of the second class, or where from any cause the sheriff can not act, the circuit court clerk of the county, by virtue of his office, shall be a member of said Board instead of the sheriff, and shall act in the place of and is given all the rights and powers that are given to sheriffs under this section," so that said section, as amended and as re-enacted, shall read as follows:

County board of election commissioners. Qualifications of members, their appointment, etc.

"§ 2. A county Board of Election Commissioners is hereby created, which shall consist of two commissioners, who shall hold their office for one year and until their successors are appointed and qualified. They shall be citizens and electors of the county from which they are appointed, and not less than twenty-five years old. They shall be appointed by the State Board of Election Commissioners. The two members of said County Board of Commissioners shall be appointed one each from five names designated in writing, if any are so designated, by each of the County Executive Committees of the two political parties that poll the largest number of votes in the State at the last preceding election for State officers or presidential electors, one of said two commissioners to be appointed from each of the two said parties: *Provided*, If there be two or more contending executive committees of the same party in the county, then that County Executive Committee which is recognized by the State Central Committee, by the written certificate of the chairman thereof, shall be recognized by the State Commission in making their appointments. The sheriff of the county, by virtue of his office, shall be a member of said Board, and shall preside at its meetings, and in case of disagreement, between the other members of said Board acting as umpire he shall be permitted to vote. Said appointment by the State Board

shall be made annually in the month of August. Said County Commissioners shall qualify by taking before the clerk of the county court an oath faithfully to perform their duties according to law. Said clerk shall make a certificate thereof, which shall be filed in his office. The Board shall choose one of its members secretary, who shall keep a record of its proceedings, which shall be a public record and kept in the office of the county court clerk. A majority of said Board, consisting of the two members appointed as aforesaid from said two political parties, or one of said two members and the sheriff of the county, shall constitute a quorum for the transaction of the business of the Board. A majority of said Board shall make any order or do any act the Board is authorized or empowered to do. If a vacancy shall occur in the Board, it shall be filled by appointment by the State Board from names already designated to the State Board as hereinbefore provided; and the member so appointed shall be of the same political party as his predecessor. In counties where there is no sheriff, and in counties containing cities of the second class, or where, from any cause, the sheriff can not act, the circuit court clerk of the county, by virtue of his office, shall be a member of said Board instead of the sheriff, and shall act in the place of and is given all the rights and powers that are given to sheriffs under this section. Resignations from said Board shall be in writing, directed to the State Board and filed with the secretary thereof. Due notice in writing of every meeting of said Board shall be given to each member thereof.

§ 2. This act shall take effect and be in full force and effect from and after its passage.

Approved March 22, 1904.

CHAPTER 94.

AN ACT to secure school attendance of children between the ages of seven and fourteen.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Requires children between 7 and 14 years of age in 1st, 2d, 3d and fourth class towns to attend school.

§ 1. That every parent, guardian or other person in any city of the first, second, third or fourth class, within this Commonwealth, having the control of any child or children between the ages of seven and fourteen years, shall be required to send such child or children, annually, to some public or private school for children for the full term of such school, and that if the attendance be upon a private school, it shall be one full term of which not less than five months: *Provided, however*, that this act shall not apply in any case where the child is physically or mentally unfit to attend school, or has already acquired the common school branches required by law; such acquisition to be tested and certified in the same manner and at the same time as in the case of county graduates of the common school.

"Truant Officer" created and defined.

§ 2. In the first week in July each year, the Board of Education in each city of the first, second, third and fourth classes, shall appoint one person for each three thousand pupils, or fraction thereof, to serve as truant officer, whose term of office shall be for one year from date of appointment, and whose authority shall be limited to the city where the appointment is made; such person so appointed shall be of strict moral character, and with ability to read and write. Truant officers shall be paid from the school tax levy of such city, at the rate of not less than $1.00 nor more than $2.50 for each school day.

Duties of said officer.

§ 3. Truant officers shall examine into any case of truancy within the city and shall warn the parent, guardian, or others in charge of the child of the final consequences of truancy if persisted in. When any child between the age of seven and fourteen years is not attending school without lawful excuse and in violation of the provision of this act, the proper truant officer shall notify the parent, guardian or other person in charge, of the fact, and require such person to cause the child to attend some recognized school within five days from the date of the notice, and it shall be the duty of such person so to cause its attendance at some recognized school. Upon failure to do so, the truant officer shall make complaint before a justice of the peace of the county in which such child lives, against the parent, guardian or other person having such child in charge, and, upon conviction, the parent, guardian or other person in charge shall forfeit to the use of the school in the city in which such child resides, a sum not less than five dollars nor more than twenty dollars for the first offense, nor less than ten dollars nor more than fifty dollars for the second and every subsequent offense, and cost of suit.

To keep record of his acts.

§ 4. The truant officer shall keep a record of his transactions for the inspection of the school boards of such cities, and suitable blanks shall be provided for his use by the State Superintendent.

False statement concerning age of child.

§ 5. Any person having control of a child who, with intent to evade the provisions of this act, shall make a wilfully false statement concerning the age of such child, or the time such child has attended school, shall forfeit for each offense, a sum not less than five dollars nor more than twenty dollars for the use of the public schools for such city.

Approved March 22, 1904.

CHAPTER 95.

AN ACT to amend the first paragraph of subsection 1, of section 3704 of the Kentucky Statutes, entitled "An act for the government of towns of the sixth class" and to re-enact the same as amended.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Powers of board of 6th class town.

That, paragraph one, of sub-section one, of section 3704, of the Kentucky Statutes, be, and the same is hereby amended, by adding after the word "profession," the last word of said paragraph of sub-section one, the following, viz.:

"And also to contract for the supplying the town with water and lights; to purchase, lease or receive such real estate and personal property as may be necessary and proper for municipal purposes, and to control, dispose of and convey the same for the benefit of the said town: *Provided*, That they shall not have the power to sell or convey any portion of any water front, but may rent such water front for a term of not exceeding twenty years, except the wharf privileges, which shall not be leased or rented for more than one year."

When said paragraph of sub-section one, of section 3704, is amended and reenacted will read as follows, viz.:

"The Board of Trustees of such town shall have power, to pass ordinances not in conflict with the Constitution or laws of this Commonwealth or of the United States, and to impose and collect license fees and taxes on stock used for breeding purposes, and all franchises, trades, occupations and professions, and also to contract for supplying the town with water and light; to purchase, lease or receive such real es-

tate and personal property as may be necessary and proper for municipal purposes, and control, dispose of and convey the same for the benefit of the said town: *Provided*, That they shall not have the power to sell or convey any portion of any water front, but may rent such water front for a term of not exceeding twenty years, except the wharf privileges, which shall not be leased or rented for more than one year."

Approved March 25, 1904.

CHAPTER 96.

AN ACT to amend an act, entitled "An Act for the government of cities of the first class," approved July 1, 1893.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Doorkeeper of police court in cities of the 1st class.

§ 1. That an act entitled "An act for the government of cities of the first class," approved July first, eighteen hundred and ninety-three, be amended by adding thereto the following section:

§ 136a. The judge of the Police Court shall have power to appoint and remove at will, a doorkeeper for the Police Court, whose duties shall be to stand at and guard the door of said court, and preserve order and perform such other services as directed by the judge of said court. Said doorkeeper shall receive a salary of fifty dollars per month to be paid monthly out of the city treasury. He is vested with the same powers as those of a deputy bailiff of the Police Court."

Approved March 22, 1904.

CHAPTER 97.

AN ACT ceding to the United States jurisdiction over a site for a camp of instruction and military post.

Military post at West Point ceded to U. S.

WHEREAS, the State of Kentucky, by reason of her central position in the Union, and her superior facilities for furnishing good army horses and for transporting troops and munitions of war, quickly and cheaply to all parts of the Union, is admirably suited for the location of a permanent camp of instruction and military post, now, therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That in the event of the establishment by the general Government of a permanent camp of instruction and military post in the vicinity of West Point, Kentucky, commonly known as the West Point Site, the State of Kentucky hereby relinquishes and cedes to the United States all the rights and jurisdiction which she now possesses over the land and premises conveyed or to be conveyed to the United States for the purpose of such permanent camp of instruction and military post, and exempt the said premises and all Government property thereon from all taxes and assessments so long as the same shall remain the property of the United States.

§ 2. There being no law in force now authorizing the purposes set out in the first section of this act, an emergency is therefore declared to exist, and this act shall take effect and be in full force from and after its passage.

Approved March 22, 1904.

CHAPTER 98.

AN ACT to provide for the condemnation of land and material necessary to construct, maintain and repair the public roads and bridges of this Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Condemnation of land or material for construction or repair of road or bridge.

§ 1. That whenever any Road Supervisor of any county of this Commonwealth, or other officer having supervision of roads of any county of this Commonwealth shall be unable to contract with the owner of any land or material necessary to construct, maintain or repair any road or bridges under his supervision, he shall file with the judge of the county court a written description of the land or material, or both, sought to be condemned. Said judge shall thereupon by order made in the county court, at a regular or special term, appoint three impartial housekeepers of the county who are owners of land, to view and assess the value of the land, material, or both, to be condemned.

Duties of commissioners.

§ 2. Said commissioners, after being duly sworn to faithfully perform their duties under the law, shall view the land and material and award to the owner or owners the value of the land or material, or both, sought to be taken, which shall be stated separately and in writing, and they shall award also the damages, if any, resulting to the adjacent lands of the owner, considering the purposes for which it is taken, but shall deduct from such incidental damages the value, if any, of the advantages and benefits that will accrue to such adjacent lands from the construction, maintaining or repairing of such road. Said commissioners shall return a report in writing to the office of

the clerk of said court, stating their award; and shall describe in their report the land and material condemned, give the names of the owners, and whether non-residents of the State, infants, persons of unsound mind, or married women.

Exceptions.

§ 3. Except the owner or owners of the land or material be an infant, a married woman, a non-resident of this State, or of unsound mind, the Road Supervisor may, upon payment of the full amount of the award, or upon tender of payment, if payment is refused, take possession of the land or material condemned and use them for the purposes for which they were condemned; *Provided*, That said Road Supervisor shall not take possession of said land, or material until the expiration of five days from making said award; and, *Provided*, further, that if the owner of the land or material condemned, within said time, file exceptions in writing, to said award with the clerk of the county court, then such Road Supervisor shall not take possession of said land and material, until the right to do so is determined as hereinafter provided.

Proceedings upon execution.

§ 4. Upon the filing of exceptions as provided in section three of this act the clerk of the county court shall issue process against the Road Supervisor to show cause why said report and award should not be annulled and set aside. Said process must have been executed five days before the first day of the term of court, at which the matter in controversy is to be tried, which matter shall be tried at such time.

Infants, etc.

§ 5. If the owner or owners of the land or material be an infant, married woman, non-resident, or of unsound mind, said commissioners, after being sworn to faithfully and impartially perform their duties, shall view the land and material and award the dam-

ages as directed in section two of this act, all of which they shall report as directed in said section two.

Process—upon whom served.

§ 6. Upon the filing of said report and award as mentioned in section 5 of this act, the Road Supervisor or other officer having supervision of the roads, if he desires to further prosecute the proceedings of condemnation, may make and file the necessary affidavits, whereupon the clerk of said court shall issue process against such owners as are mentioned in section 5, and the husbands, wives, guardians and committees of those who are married, infants, or of unsound mind, to show cause, if any, why said report should not be confirmed, and the clerk shall make such orders as to non-residents and persons under disability as are required by the Civil Code of Practice in actions against them in the circuit court.

Confirmation of report.

§ 7. At the first regular term of the county court after the owners mentioned in section 5 of this act, shall have been summoned the length of time prescribed by the Civil Code of Practice before an answer is required, it shall be the duty of the court to examine said report, and if it shall conform to this law, to the extent that no exceptions have been filed thereto by either party the court shall confirm said report.

Jury to try issues of fact—appeal.

§ 8. When exceptions shall be filed by either party, the court shall forthwith cause a jury to be impaneled to try the issues of fact made by the exceptions. In assessing the damages the jury shall be governed by the rule prescribed in section 2. If sufficient cause be not shown for setting aside the verdict, the court shall render judgment in conformity thereto, and shall make such orders as may be proper for the conveyance of the title upon payment of the damages assessed. Either party may prosecute an appeal to the circuit court, but the owner of the land or mate-

rial, shall, within ten days after the rendering of said judgment in the county court execute bond as required in other cases. The appeal shall be tried *de novo* upon the confirmation of the report of the commissioners by the county court, or the assessment of damages by said court as herein provided. When the damages and costs assessed to the owner shall have been paid, the Road Supervisor or other officer having supervision of the roads shall be entitled to take possession of said land and material for the use and benefit of the county of which he is Road Supervisor, and use and control the same for the purpose for which it was condemned. Should the owner of the land and material refuse to accept the damages and costs assessed, the amount thereof may be paid to the clerk of the court for such owner, and this shall have the same effect as though paid to the owner.

No bond upon appeal.

§ 9. If the Road Supervisor desires to appeal from the judgment of the county court no bond shall be required.

§ 10. Except as herein provided all appeals shall be prosecuted as provided by law regulating appeals in this Commonwealth.

Prosecutions in name of Commonwealth.

§ 11. For the purpose of the condemnation of land and material as herein provided, all prosecutions shall be in the name of the Commonwealth of Kentucky for the use and benefit of such county in which the land and material lies.

Approved March 22, 1904.

CHAPTER 99.

AN ACT to change the county lines between the counties of Clay and Laurel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the county lines between said counties of Clay and Laurel be changed as follows Beginning on top of the Kentucky Ridge where said lines now cross thence, a northwest course with the meanders of said ridge to a high knob east of W. H. Porter's house; thence a northwest course down said ridge to the mouth of the branch said Porter lives on; thence, a straight line northwest to a high knob on top of Kentucky Ridge, southeast of J. J. C. Howard's house; thence, with said ridge northwest to the top of Buzzard Cliff Ridge; thence near a west course crossing county road on top Stony Point; then, near a west course to the old Ike Benge Mill Place on Mill Creek; thence, a straight line northwest to the corners of Clay, Laurel and Jackson counties. County lines changed.

§ 2. All laws in conflict with this act are hereby repealed.

Approved March 22, 1904.

CHAPTER 100.

AN ACT in relation to town marshals in towns of the sixth class.

WHEREAS, There are many Magisterial Districts throughout the Commonwealth in which constables have failed to qualify; and Authority of marshal of 6th class town.

WHEREAS, There are in many of those Magisterial

Districts, towns of the sixth class, wherein the tow marshals could be made available for the service processes of law, both civil and criminal, to the gre convenience of the public; therefore,

Be it enacted by the General Assembly of the Co monwealth of Kentucky:

§ 1. That in any Magisterial District of this Co monwealth wherein there is no qualified constabl to perform the duties pertaining to said office, an in which there is situated a town of the sixth clas the marshal of said town is hereby authorized and em powered to perform all the duties pertaining to th office of constable co-extensive with said Magisteria District, so long as the office of constable is vacant i said district or districts, and no longer.

This act shall take effect from and after the ap proval of the Governor.

Approved March 22, 1904.

CHAPTER 101.

AN ACT for the benefit of the Kentucky Institute for Deaf Mutes, of Danville, Ky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Appropriation.

§ 1. That there is hereby appropriated out of the general revenue of the State for the benefit of the Kentucky Institute for Deaf Mutes at Danville, Kentucky, the following named sums for the specific purposes named and set out herein, as follows, to-wit:

$3,989 appropriated to cover deficit.

§ 2. WHEREAS, Under the act of March 29, 1902, the sum of sixty thousand dollars was appropriated for

he building and erection of a steam plant and two dormitories for pupils, for said institute; and,

WHEREAS, Said steam plant and two dormitories ave been erected and completed at a total cost of ixty-three thousand nine hundred and eighty-nine and $\frac{1}{100}$ dollars as shown by the report of he board of commissioners of said institute; therefore, for the purpose of paying said deficit and balance ue and owing by said institute on said steam plant and ormitories the sum of three thousand nine hundred and ighty-nine and $\frac{21}{100}$ dollars is now appropriated.

§ 3. WHEREAS, It became necessary to change the eating system of the old buildings of said institute o correspond with the heating system of the new uildings and to have same all under one heating system; and, Change in heating system.

WHEREAS, Said change has been made and completed as a cost of one thousand five hundred dollars, now for the purpose of paying for the cost of changing the heating system of said old buildings the sum of one thousand five hundred dollars is hereby appropriated.

§ 4. For the purpose of furnishing said two dormitory buildings the sum of eight hundred dollars is appropriated. Furnishings.

§ 5. For the purpose of building and completing 3,000 feet of concrete walks in and about said buildings and grounds of said institute, the sum of four hundred and eighty dollars is appropriated. Concrete walks.

§ 6. For the purpose of enlarging the present dining room and building a new kitchen, storeroom and bakery and pantry, as per plans prepared, the sum of five thousand eight hundred dollars is appropriated. Dining room, etc.

§ 7. The money hereby appropriated shall be drawn on the demand or application of the board of How money drawn.

commissioners of said institute, and upon said application or demand, duly signed by the president, treasurer and secretary of said board, being made to and upon him, the Auditor of Public Accounts shall draw his warrant or warrants on the Treasurer of the State in favor of the treasurer of said institute for any sum or sums not exceeding the amounts hereby appropriated; and no part of said money shall be expended by said board except for the purposes as above set forth.

Electric light plant.

§ 8. For the purpose of providing an electric light plant; for flooring in old buildings and other necessary and needed improvements, the sum of nine thousand six hundred and fifty dollars is hereby appropriated.

§ 9. Because of the urgent need of the improvements herein provided for, and of the payment of the old deficit on the present buildings, an emergency is declared to exist, and this act shall take effect from and after its approval by the Governor.

I disapprove section (5) five of this bill appropriating $480.00.

I disapprove section (6) six of this bill appropriating $5,800.00.

I disapprove section (8) eight of this bill appropriating $9,650.00.

With the exceptions above stated, I approve all other appropriations in this bill.

March 22, 1904. J. W. C. BECKHAM, *Governor.*

CHAPTER 102.

AN ACT relating to Negotiable Instruments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

TITLE I.—NEGOTIABLE INSTRUMENTS IN GENERAL.

ARTICLE I

Form and Interpretation.

Requirements of a negotiable instrument.

§ 1. An instrument to be negotiated must conform to the following requirements:

(1) It must be in writing and signed by the maker or drawer.

(2) Must contain an unconditional promise or order to pay a sum certain in money.

(3) Must be payable on demand or at a fixed or determinable future time.

(4) Must be payable to the order of a specified person or to bearer; and

(5) Where the instrument is addressed to a drawee, he must be named or otherwise indicated therein with reasonable certainty.

Sum payable.

§ 2. The sum payable is a sum certain within the meaning of this act, although it is to be paid:

(1) With interest; or

(2) By stated installments; or

(3) By stated installments, with a provision that upon default in payment of any installment, the whole shall become due; or

(4) With exchange, whether at a fixed rate or at the current rate; or

(5) With costs of collection or an attorney's fee, in case payment shall not be made at maturity.

Unconditional.

§ 3. An unqualified order or promise to pay is unconditional within the meaning of this act, though coupled with it:

(1) An indication of a particular fund, out of which reimbursement is to be made, or a particular account to be debited with the amount; or

(2) A statement of the transaction which gives rise to the instrument.

But an order or promise to pay out of a particular fund is not unconditional.

When payable.

§ 4. An instrument is payable at a determinable future time, within the meaning of this act, which is expressed to be payable:

(1) At a fixed period after date or sight; or

(2) On or before a fixed or determinable future time specified therein; or

(3) On or at a fixed period after the occurrence of a specified event, which is certain to happen, though the time of happening be uncertain.

An instrument payable upon a contingency is not negotiable, and the happening of the event does not cure the defect.

Non-negotiable.

§ 5. An instrument which contains an order or promise to do an act in addition to the payment of money is not negotiable; but the negotiable character of an instrument otherwise negotiable is not affected by a provision which:

(1) Authorize the sale of collateral securities in case the instrument be not paid at maturity; or

(2) Authorizes a confession of judgment if the instrument be not paid at maturity; or

(3) Gives the holder an election to require something to be done in lieu of payment of money.

But nothing in this section shall validate any provision or stipulation otherwise illegal.

Negotiable character—not affected by.

§ 6. The validity and negotiable character of an instrument are not affected by the fact that:

(1) It is not dated; or

(2) Does not specify the value given, or that any value has been given therefor; or

(3) Does not specify the place where it is drawn or the place where it is payable; or

(4) Bears a seal; or

(5) Designates a particular kind of current money in which payment is to be made.

But nothing in this section shall alter or repeal any statute requiring in certain cases the nature of the consideration to be stated in the instrument.

When payable on demand.

§ 7. An instrument is payable on demand:

(1) Where it is expressed to be payable on demand, or at sight, or on presentation; or

(2) In which no time for payment is expressed.

Where an instrument is issued, accepted or indorsed when overdue, it is, as regards the person so issuing, accepting, or indorsing it, payable on demand.

When payable to order.

§ 8. The instrument is payable to order where it is drawn payable to the order of a specified person or to him or his order. It may be drawn payable to the order of:

(1) A payee who is not maker, drawer, or drawee; or

(2) The drawer or maker; or

(3) The drawee; or

(4) Two or more payees jointly; or

(5) One or some of several payees; or

(6) The holder of an office for the time being.

Where the instrument is payable to order, the payee

must be named or otherwise indicated therein with reasonable certainty.

When payable to bearer.

§ 9. The instrument is payable to bearer:

(1) When it is expressed to be so payable; or

(2) When it is payable to a person named therein or bearer; or

(3) When it is payable to the order of a fictitious or non-existing person, and such fact was known to the person making it so payable; or

(4) When the name of the payee does not purport to be the name of any person; or

(5) When the only or last indorsement is an indorsement in blank.

When negotiable.

§ 10. The negotiable instrument need not follow the language of this act, but any terms are sufficient which clearly indicate an intention to conform to the requirements thereof.

Date.

§ 11. When the instrument or an acceptance or any indorsement thereon is dated, such date is deemed *prima facie* to be the true date of the making, drawing, acceptance or indorsement, as the case may be.

Antedated or post-dated—effect of.

§ 12. The instrument is not invalid for the reason only that it is ante-dated or post-dated, provided this is not done for an illegal or fraudulent purpose. The person to whom an instrument so dated is delivered, acquires the title thereto as of the date of delivery.

When holder may insert true date.

§ 13. When an instrument expressed to be payable at a fixed period after date is issued undated or where the acceptance of an instrument payable at a fixed period after sight is undated, any holder may insert therein the true date of issue or acceptance and the instrument shall be payable accordingly. The insertion of a wrong date does not avoid the instrument in the hands of a subsequent holder in due course; but as to him, the date so inserted is to be regarded as the true date.

§ 14. Where the instrument is wanting in any material particular, the person in possession thereof has a *prima facie* authority to complete it by filling up the blanks therein, And a signature on a blank paper delivered by the person making the signature in order that the paper may be converted into a negotiable instrument operates as a *prima facie* authority to fill it up as such for any amount. In order, however, that any such instrument when completed may be enforced against any person who became a party thereto prior to its completion, it must be filled up strictly in accordance with the authority given and within reasonable time. But if any such instrument, after completion, is negotiable to a holder in due course it is valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up strictly in accordance with the authority given and within a reasonable time. How blanks filed.

§ 15. Where an incomplete instrument has not been delivered it will not, if completed and negotiated, without authority, be a valid contract in the hands of any holder, as against any person whose signature was placed thereon before delivery. Incomplete instruments.

§ 16. Every contract on a negotiable instrument is incomplete and revocable until delivery of the instrument for the purpose of giving effect thereto. As between immediate parties, and as regards a remote party other than a holder in due course, the delivery, in order to be effectual, must be made either by or under the authority of the party making, drawing, accepting, or indorsing as the case may be; and in such case the delivery may be shown to have been conditional or for a special purpose only, and not for the purpose of transferring the property in the instrument. But where the instrument is in the hands of a holder in due course, a valid delivery thereof by all parties prior to him so Delivery necessary.

as to make them liable to him is conclusively presumed. And where the instrument is no longer in the possession of a party whose signature appears thereon, a valid and intentional delivery by him is presumed until the contrary is proved.

Ambiguous instruments—how construed.

§ 17. Where the language of the instrument is ambiguous, or there are omissions therein, the following rules of construction apply:

(1) Where the sum payable is expressed in words and also in figures and there is a discrepancy between the two, the sum denoted by the words is the sum payable; but if the words are ambiguous or uncertain, references may be had to the figures to fix the amount.

(2) Where the instrument provides for the payment of interest, without specifying the date from which interest is to run, the interest runs from the date of the instrument, and if the instrument is undated, from the issue thereof.

(3) Where the instrument is not dated, it will be considered to be dated as of the time it was issued.

(4) Where there is conflict between the written and printed provisions of the instrument, the written provisions prevail.

(5) Where the instrument is so ambiguous that there is doubt whether it is a bill or a note, the holder may treat it as either, at his election.

(6) Where a signature is so placed upon the instrument that it is not clear in what capacity the person making the same intended to sign, he is to be deemed an indorser.

(7) Where an instrument containing the words, "I promise to pay," is signed by two or more persons, they are deemed to be jointly and severally liable thereon.

[illegible]de or assumed [illegible]ds party.

§ 18. No person is liable on the instrument whose

signature does not appear thereon, except as herein otherwise expressly provided. But one who signs in a trade or assumed name will be liable to the same extent as if he had signed in his own name.

Agency to sign.

§ 19. The signature of any party may be made by an agent duly authorized in writing.

When person signing as agent is liable as principal.

§ 20. Where the instrument contains, or a person adds to his signature, words indicating that he signs for or on behalf of the principal, or in a representative capacity, he is not liable on the instrument if he was duly authorized; but the mere addition of words describing him as an agent, or as filling a representative character without disclosing his principal, does not exempt him from personal liability.

Signature by "procuration."

§ 21. A signature by "procuration" operates as notice that the agent has but a limited authority to sign, and the principal is bound only in case the agent in so signing acted within the actual limits of his authority.

Assignment or endorsement by corporation or infant.

§ 22. The indorsement or assignment of the instrument by a corporation or by an infant passes the property therein, notwithstanding that from want of capacity the corporation or infant may incur no liability thereon.

When signature is forged.

§ 23. Where a signature is forged or made without the authority of the person whose signature it purports to be, it is wholly inoperative, and no right to retain the instrument, or to give a discharge therefor, or to enforce payment thereof against any party thereto, can be acquired through or under such signature, unless the party against whom it is sought to enforce such right is precluded from setting up the forgery or want of authority.

ARTICLE II.

Consideration.

Consideration presumed.

§ 24. Every negotiable instrument is deemed *prima facie* to have been issued for a valuable consideration; and every person whose signature appears thereon to have become a party thereto for value.

Consideration.

§ 25. Value is any consideration sufficient to support a simple contract. An antecedent or pre-existing debt constitutes a value, and is deemed such, whether the instrument is payable on demand or at a future time.

Holder deemed a holder for value.

§ 26. Where value has at any time been given for the instrument, the holder is deemed a holder for value in respect to all parties who became such prior to that time.

Holder with lien, a holder for value.

§ 27. Where the holder has a lien on the instrument, arising either from contract or by implication of law, he is deemed a holder for value to the extent of his lien.

Consideration—matter of defense.

§ 28. Absence or failure of consideration is a matter of defense as against any person not a holder in due course, and partial failure of consideration is a defense *pro tanto,* whether the failure is an ascertained and liquidated amount or otherwise.

Accommodation party—who?

§ 29. An accommodation party is one who has signed the instrument as maker, drawer, acceptor or indorser, without receiving value therefor, and for the purpose of lending his name to some other person. Such a person is liable on the instrument to a holder for value, notwithstanding such holder at the time of taking the instrument knew him to be only an accommodation party.

ARTICLE III.

Negotiation.

What constitutes negotiation.

§ 30. An instrument is negotiated when it is transferred from one person to another in such manner as to constitute the transferee the holder thereof if payable to bearer, it is negotiated by delivery; if payable to order, it is negotiated by the indorsement of the holder, completed by delivery.

Endorsement must be written.

§ 31. The indorsement must be written on the instrument or upon a paper attached thereto. The signature of the indorser, without additional words, is a sufficient indorsement.

Endorsement must be of entire instrument.

§ 32. The indorsement must be an indorsement of the entire instrument. An indorsement which purports to transfer to the indorsee a part only of the amount payable, or which purports to transfer the instrument to two or more indorsees severally, does not operate as a negotiation of the instrument; but where the instrument has been paid in part, it may be indorsed as to the residue.

Endorsement blank, special, restrictive or qualified.

§ 33. An indorsement may be either in blank or special, and it may also be either restrictive or qualified, or conditional.

Special and blank endorsements.

§ 34. A special indorsement specifies the person to whom or to whose order the instrument is to be payable; and the indorsement of such indorsee is necessary to the further negotiation of the instrument. An indorsement in blank specifies no indorsee, and an instrument so endorsed is payable to bearer, and may be negotiated by delivery.

How blank converted to special.

§ 35. The holder may convert a blank indorsement into a special indorsement by writing over the signa-

ture of the indorser in blank any contract consistent with the character of the indorsement.

Restrictive endorsement.

§ 36. An indorsement is restrictive which either:

(1) Prohibits the further negotiation of the instrument; or

(2) Constitutes the indorsee the agent of the indorser; or

(3) Vests the title in the indorsee in trust for or to the use of some other person. But the mere absence of words implying power to negotiate does not make an indorsement restrictive.

What restrictive endorsement confers upon the endorsee.

§ 37. A restrictive indorsement confers upon the indorse the right:

(1) To receive payment of the instrument.

(2) To bring any action thereon that the indorser could bring.

(3) To transfer his rights as such indorsee, where the form of the indorsement authorizes him to do so.

But all subsequent indorsees acquire only the title of the first indorsee under the restrictive indorsement.

Qualified endorsement.

§ 38. A qualified indorsement constitutes the indorser a mere assignor of the title to the instrument. It may be made by adding to the indorser's signature the words "without recourse" or any words of similar import. Such an indorsement does not impair the negotiable character of the instrument.

Instrument conditionally endorsed confers only the rights of the endorser.

§ 39. Where an indorsement is conditional, a party required to pay the instrument may disregard the condition, and make payment to the indorsee or his transferee, whether the condition has been fulfilled or not. But any person to whom an instrument so indorsed is negotiated, will hold the same, or the proceeds thereof, subject to the rights of the person indorsing conditionally.

§ 40. Where an instrument, payable to bearer, is indorsed specially, it may nevertheless be further negotiated by delivery; but the person indorsing specially is liable as indorser to only such holders as to make title through his indorsement. Special endorsement may be further negotiated.

§ 41. Where an instrument is payable to the order of two or more payees or indorsees who are not partners, all must indorse unless the one indorsing has authority to indorse for the others. Each joint holder required to endorse.

§ 42. Where an instrument is drawn or indorsed to a person as "cashier" or other fiscal officer of a bank or corporation, it is deemed *prima facie* to be payable to the bank or corporation of which he is such officer, and may be negotiated by either the indorsement of the bank or corporation, or the indorsement of the officer. Effect of endorsement to cashier or other fiscal officer of bank.

§ 43. Where the names of a payee or indorsee is wrongly designated or misspelled, he may indorse the instrument as therein described, adding, if he thinks fit, his proper signature. How endorsed when name misspelled.

§ 44. Where any person is under obligation to indorse in a representatve capacity, he may indorse in such terms as to negative personal liability. A representative may endorse without personal liability.

§ 45. Except where an indorsement bears date after the maturity of the instrument, every negotiation is deemed *prima facie* to have been affected before the instrument was overdue. When endorsements presumed to have been made before maturity.

§ 46. Except where the contrary appears every indorsement is presumed *prima facie* to have been made at the place where the instrument is dated. When endorsement presumed to be made.

§ 47. An instrument negotiable in its origin continues to be negotiable until it has been restrictively indorsed or discharged by payment or otherwise. Instrument continues negotiable.

§ 48. The owner may at any time strike out any indorsement which is not necessary to his title. The indorser whose indorsement is struck out, and all in- Effect of endorsement being struck out.

dorsers subsequent to him, are thereby relieved from liability on the instrument.

Transfer without endorsement—effect of.

§ 49. Where the holder of an instrument payable to his order transfers it for value without indorsing it, the transfer vests in the transferee such title as the transferrer had therein, and the transferee acquires, in addition, the right to have the indorsement of the transferrer. But for the purpose of determining whether the transferee is a holder in due course, the negotiation takes effect as of the time when the indorsement is actually made.

When instrument is endorsed back to a prior party—effect of.

§ 50. Where an instrument is negotiated back to a prior party, such party may, subject to the provisions of this act, re-issue and further negotiate the same; but he is not entitled to enforce payment thereof against any intervening party to whom he was personally liable.

ARTICLE IV.

Rights of the Holder.

Holder may sue in own name.

§ 51. The holder of a negotiable instrument may sue thereon in his own name, and payment to him in due course discharges the instrument.

A holder in due course.

§ 52. A holder in due course is a holder who has taken the instrument under the following conditions:

(1) That the instrument is complete and regular upon its face.

(2) That he became the holder of it before it was overdue, and without notice that it had been previously dishonored, if such was the fact.

(3) That he took it in good faith and for value.

(4) That at the time it was negotiated to him he had no notice of any infirmity in the instrument or defect in the title of the person negotiating it.

A holder not in due course.

§ 53. Where an instrument payable on demand is negotiated an unreasonable length of time after its issue, the holder is not deemed a holder in due course.

Transferee, when a holder in due course, and when not.

§ 54. Where the transferee receives notice of any infirmity in the instrument or defect in the title of the person negotiating the same before he has paid the full amount agreed to be paid therefor, he will be deemed a holder in due course only to the extent of the amount theretofore paid by him.

When title defective.

§ 55. The title of a person who negotiates an instrument is defective within the meaning of this act when he obtained the instrument, or any signature thereto, by fraud, duress, or force and fear, or other unlawful means, or for illegal consideration, or when he negotiates it in breach of faith, or under such circumstances as amount to a fraud.

What constitutes notice.

§ 56. To constitute notice of an infirmity in the instrument or defect in the title of the person negotiating the same, the person to whom it is negotiated must have had actual knowledge of the infirmity or defect, or knowledge of such facts that his action in taking the instrument amounted to bad faith.

Holder in due course takes free from defects.

§ 57. A holder in due course holds the instrument free from any defect of title of prior parties and free from defenses available to prior parties among themselves, and may enforce payment of the instrument for the full amount thereof against all parties liable thereon.

Holder not in due course takes subject to defects.

§ 58. In the hands of any holder other than a holder in due course, a negotiable instrument is subject to the same defenses as if it were non-negotiable. But a holder who derives his title through a holder in due course, and who is not himself a party to any fraud or illegality affecting the instrument, has all the rights

of such former holder in respect of all parties prior to the latter.

Holder presumed to hold in due course, but title may be shown to be defective.

§ 59. Every holder is deemed *prima facie* to be a holder in due course; but when it is shown that the title of any person who has negotiated the instrument was defective, the burden is on the holder to prove that he or some person under whom he claims acquired the title as a holder in due course. But the last mentioned rule does not apply in favor of a party who became bound on the instrument prior to the acquisition of such defective title.

ARTICLE V.

Liabilities of Parties.

Maker's liabilities.

§ 60. The maker of a negotiable instrument by making it engages that he will pay it according to its tenor, and admits the existence of the payee and his then capacity to indorse.

Drawer's liabilities.

§ 61. The drawer by drawing the instrument admits the existence of the payee and his then capacity to indorse, and engages that on due presentment the instrument will be accepted or paid, or both, according to its tenor, and that if it be dishonored, and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder, or to any subsequent inderser who may be compelled to pay it. But the drawer may insert in the instrument an express stipulation negativing or limiting his own liability to the holder.

Acceptor's liabilities.

§ 62. The acceptor by accepting the instrument engages that he will pay it according to the tenor of his acceptance, and admits:

(1) The existence of the drawer, the genuineness

of his signature, and his capacity and authority to draw the instrument; and

(2) The existence of the payee and his then capacity to indorse.

When other person bound.

§ 63. A person placing his signature upon an instrument otherwise than as maker, drawer or acceptor is deemed to be an indorser, unless he clearly indicates by appropriate words his intention to be bound in some other capacity.

Liability of person who signs in blank.

§ 64. Where a person, not otherwise a party to an instrument, places thereon his signature in blank before delivery, he is liable as indorser in accordance with the following rules:

(1) If the instrument is payable to the order of a third person, he is liable to the payee and to all subsequent parties.

(2) If the instrument is payable to the order of the maker or drawer, or is payable to bearer, he is liable to all parties subsequent to the maker or drawer.

(3) If he signs for the accommodation of the payee, he is liable to all parties subsequent to the payee.

Person negotiating by delivery—warrants.

§ 65. Every person negotiating an instrument by delivery or by a qualified indorsement, warrants:

(1) That the instrument is genuine and in all respect what it purports to be.

(2) That he has a good title to it.

(3) That all prior parties had capacity to contract.

(4) That he has no knowledge of any fact which would impair the validity of the instrument or render it valueless.

But when the negotiation is by delivery only, the warranty extends in favor of no holder other than the immediate transferee.

The provisions of subdivision three of this section

do not apply to persons negotiating public or corporate securities, other than bills and notes.

Endorser without qualification—warrants.

§ 66. Every indorser who indorses without qualification, warrants to all subsequent holders in due course:

(1) The matters and things mentioned in subdivisions one, two and three of the next preceding section; and

(2) That the instrument is at the time of his indorsement valid and subsisting.

And, in addition, he engages that on due presentment, it shall be accepted or paid, or both, as the case may be, according to its tenor, and that if it be dishonored, and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder, or to any subsequent indorser who may be compelled to pay it.

Endorsement on instrument negotiable by delivery.

§ 67. Where a person places his indorsement on an instrument negotiable by delivery he incurs all the liabilities of an indorser.

Liability between indorsers.

§ 68. As respects one another, indorsers are liable *prima facie* in the order in which they indorse; but evidence is admissible to show that as between or among themselves they have agreed otherwise. Joint payees or joint indorsees who indorse are deemed to indorse jointly and severally.

Liability of agent or broker.

§ 69. Where a broker or other agent negotiates an instrument without indorsement, he incurs all the liabilities prescribed by section sixty-five of this act, unless he discloses the name of his principal, and the fact that he is acting only as agent.

ARTICLE VI.

Presentment for Payment.

Presentment.

§ 70. Presentment for payment is not necessary in order to charge the person primarily on the instrument; but if the instrument is, by its terms, payable at a special place, and he is able and willing to pay it there at maturity, such ability and willingness are equivalent to a tender of payment upon his part. But except as herein otherwise provided presentment for payment is necessary in order to charge the drawer and indorsers.

Presentment on maturity.

§ 71. Where the instrument is not payable on demand, presentment must be made on the day it falls due. Where it is payable on demand, presentment must be made within a reasonable time after its issue, except that in the case of a bill of exchange, presentment for payment will be sufficient if made within a reasonable time after the last negotiation thereof.

Presentment when sufficient, etc.

§ 72. Presentment for payment, to be sufficient, must be made:

(1) By the holder, or by some person authorized to receive payment on his behalf.

(2) At a reasonable hour on a business day.

(3) At a proper place as herein defined.

(4) To the person primarily liable on the instrument, or if he is absent or inaccessible, to any person found at the place where the presentment is made.

Proper place for presentment.

§ 73. Presentment for payment is made at the proper place:

(1) Where a place of payment is specified in the instrument and it is there presented.

(2) Where no place of payment is specified and the address of the person to make payment is given in the instrument and it is there presented.

(3) Where no place of payment is specified and no address is given and the instrument is presented at the usual place of business or residence of the person to make payment.

(4) In any other case if presented to the person to make payment wherever he can be found, or if presented at his last known place of business or residence.

To whom instrument must be presented.

§ 74. The instrument must be exhibited to the person from whom payment is demanded, and when it is paid must be delivered up to the party paying it.

Presentment at bank.

§ 75. Where the instrument is payable at a bank, presentment for payment must be made during banking hours, unless the person to make payment has no funds there to meet it at any time during the day, in which case presentment at any hour before the bank is closed on that day is sufficient.

Presentment when person liable is dead.

§ 76. Where the person primarily liable on the instrument is dead, and no place of payment is specified, presentment for payment must be made to his personal representative, if such there be, and if with the exercise of reasonable diligence he can be found.

Presentment to one member of partnership sufficient.

§ 77. Where the persons primarily liable on the instrument are liable as partners, and no place of payment is specified, presentment for payment may be made to any one of them, even though there has been a dissolution of the firm.

Presentment when several are jointly liable

§ 78. Where there are several persons, not partners, primarily liable on the instrument, and no place of payment is specified, presentment must be made to them all.

Presentment not required to hold drawer.

§ 79. Presentment for payment is not required in order to charge the drawer where he has no right to expect or require that the drawee or acceptor will pay the instrument.

§ 80. Presentment for payment is not required in order to charge an indorser where the instrument was made or accepted for his accommodation, and he has no reason to expect that the instrument will be paid if presented. Presentment not required to hold endorser—when.

§ 81. Delay in making presentment for payment is excused when the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, presentment must be made with reasonable diligence. Presentment—when excused.

§ 82. Presentment for payment is dispensed with: Presentment—when dispensed with.

(1) Where, after the exercise of reasonable diligence, presentment as required by this act can not be made.

(2) Where the drawee is a fictitious person.

(3) By waiver of presentment, express or implied.

§ 83. The instrument is dishonored by non-payment when: When dishonored.

(1) It is duly presented for payment and payment is refused or can not be obtained; or

(2) Presentment is excused and the instrument is overdue and unpaid.

§ 84. Subject to the provisions of this act, when the instrument is dishonored by non-payment, an immediate right of recourse to all parties secondarily liable thereon, accrues to the holder. Holder's rights when dishonored.

§ 85. Every negotiable instrument is payable at the time fixed therein, without grace. When the day of maturity falls upon Sunday, or a holiday, the instrument is payable on the next succeeding business day. When payable.

§ 86. Where the instrument is payable at a fixed period after date, after sight, or after the happening of a specified event, the time of payment is determined by How determined when payable.

excluding the day from which the time is to begin to run, and by including the date of payment.

When payable at bank.

§ 87. Where the instrument is made payable at a bank it is equivalent to an order to the bank to pay the same for the account of the principal debtor thereon.

Payment made in due course.

§ 88. Payment is made in due course when it is made at or after maturity of the instrument to the holder thereof in good faith and without notice that his title is defective.

ARTICLE VII.

Notice of Dishonor.

Notice of dishonor.

§ 89. Except as herein otherwise provided, when a negotiable instrument has been dishonored by non-acceptance or non-payment, notice of dishonor must be given to the drawer and to each indorser, and any drawer or indorser to whom such notice is not given is discharged.

How notice given.

§ 90. The notice may be given by or on behalf of the holder, or by or on behalf of any party to the instrument who might be compelled to pay it to the holder, and who, upon taking it up, would have a right to reimbursement from the party to whom the notice is given.

Notice by agent.

§ 91. Notice of dishonor may be given by an agent either in his own name or in the name of any party entitled to give notice, whether that party be his principal or not.

Notice for or on behalf of holder.

§ 92. Where notice is given by or on behalf of the holder, it inures for the benefit of all subsequent holders and all prior parties who have a right or recourse against the party to whom it is given.

Notice generally.

§ 93. Where notice is given by or on behalf of a party entitled to given notice, it inures for the benefit of the holder and all parties subsequent to the party to whom notice is given.

How and when given.

§ 94. Where the instrument has been dishonored in the hands of an agent, he may either himself give notice to the parties liable thereon, or he may give notice to his principal. If he gives notice to his principal, he must do so within the same time as if he were the holder, and the principal, upon the receipt of such notice, has himself the same time for giving notice as if the agent had been an independent holder.

Notice written and signed.

§ 95. A written notice need be signed, and an insufficient written notice may be supplemented and validated by a written communication. A misdescription of the instrument does not vitiate unless the party to whom the notice is given is in fact misled thereby.

Notice personally or by mail.

§ 96. The notice may be in writing, and may be given in any terms which sufficiently identify the instrument and indicate that it has been dishonored by non-acceptance or non-payment. It may in all cases be given by delivering it personally or through the mails.

Notice given to party or agent.

§ 97. Notice of dishonor may be given either to the party himself or to his agent in that behalf.

Notice to personal representative.

§ 98. Where any party is dead, and his death is known to the party giving notice, the notice must be given to a personal representative, if there be one, and if, with reasonable diligence, he can be found. If there be no personal representative, notice may be sent to the last residence or last place of business of the deceased.

Notice to one partner sufficient.

§ 99. Where the parties to be notified are partners, notice to any one partner is notice to the firm, even though there has been a dissolution.

Notice required to each jointly liable.

§ 100. Notice to joint parties who are not partners

must be given to each of them, unless one of them has authority to receive such notice for the others.

Notice to bankrupt or insolvent.

§ 101. Where a party has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of creditors, notice may be given either to the party himself or to his trustee or assignee.

When given.

§ 102. Notice may be given as soon as the instrument is dishonored, and unless delay is excused as hereinafter provided, must be given within the times fixed by this act.

Notice where party giving and receiving reside at same place.

§ 103. Where the person giving and the person to receive notice reside in same place, notice must be given within the following times:

(1) If given at the place of business of the person to receive notice, it must be given before the close of business hours on the day following.

(2) If given at his residence, it must be given before the usual hours of rest on the day following.

(3) If sent by mail, it must be deposited in the postoffice in time to reach him in the usual course on the day following.

Notice when they live at different places.

§ 104. Where the person giving and the person to receive notice reside in different places, the notice must be given within the following times:

(1) If sent by mail, it must be deposited in the postoffice in time to go by mail the day following the day of dishonor, or if there be no mail at a convenient hour on that day, by the next mail thereafter.

(2) If given otherwise than through the postoffice, then within the time that notice would have been received in due course of mail, if it had been deposited in the postoffice within the time specified in the last subdivision.

Notice may be sent through mail.

§ 105. Where notice of dishonor is duly addressed and deposited in the postoffice, the sender is deemed to

have given due notice, notwithstanding any miscarriage in the mails.

Notice when mailed.

§ 106. Notice is deemed to have been deposited in the postoffice when deposited in any branch postoffice or in any letter box under the control of the Postoffice Department.

Notice of dishonor to antecedent parties.

§ 107. Where a party receives notice of dishonor, he has, after the receipt of such notice, the same time for giving notice to antecedent parties that the holder has after the dishonor.

Notice sent to address given.

§ 108. Where a party has added an address to his signature, notice of dishonor must be sent to that address; but if he has not given such address, then the notice must be sent as follows:

(1) Either to the postoffice nearest to his place of residence, or to the postoffice where he is accustomed to receive his letters; or

(2) If he lives in one place and has his place of business in another, notice may be sent to either place; or

(3) If he is sojourning in another place, notice may be sent to the place where he is sojourning.

But where the notice is actually received by the party within the time specified in this act, it will be sufficient, though not sent in accordance with the requirements of this section.

Notice may be waived.

§ 109. Notice of dishonor may be waived, either before the time of giving notice has arrived, or after the omission to give due notice, and the waiver may be express or implied.

Notice waived in instrument.

§ 110. Where the waiver is embodied in the instrument itself, it is binding upon all parties; but where it is written above the signature of an indorser, it binds him only.

Notice of protest; waived.

§ 111. A waiver of protest, whether in the case of

a foreign bill of exchange or other negotiable instrument, is deemed to be a waiver not only of a formal protest, but also of a presentment and notice of dishonor.

When notice of dishonor dispensed with.

§ 112. Notice of dishonor is dispensed with when, after the exercise of reasonable diligence, it can not be given to or does not reach the parties sought to be charged.

Notice, when delay of, excused.

§ 113. Delay in giving notice of dishonor is excused when the delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, notice must be given with reasonable diligence.

When notice not required to be given to drawer.

§ 114. Notice of dishonor is not required to be given to the drawer in either of the following cases:

(1) Where the drawer and the drawee are the same person.

(2) Where the drawee is a fictitious person or a person not having capacity to contract.

(3) Where the drawer is the person to whom the instrument is presented for payment.

(4) Where the drawer has no right to expect or require that the drawee or acceptor will honor the instrument.

(5) Where the drawer has countermanded payment.

When notice to indorser not required.

§ 115. Notice of dishonor is not required to be given to an indorser in either of the following cases:

(1) Where the drawee is a fictitious person, or a person not having capacity to contract and the indorser was aware of the fact at the time he indorsed the instrument.

(2) Where the indorser is the person to whom the instrument is presented for payment.

(3) Where the instrument was made or accepted for his accommodation.

When notice of non-payment not necessary.

§ 116. Where due notice of dishonor by non-acceptance has been given, notice of a subsequent dishonor by non-payment is not necessary, unless in the meantime the instrument has been accepted.

Omission to give notice.

§ 117. An omission to give notice of dishonor by non-acceptance does not prejudice the rights of a holder in due course subsequent to the omission.

Protest required—when.

§ 118. Where any negotiable instrument has been dishonored it may be protested for non-acceptance or non-payment as the case may be; but protest is not required, except in the case of foreign bills of exchange.

ARTICLE VIII.

Discharge of Negotiable Instruments.

How discharged.

§ 119. A negotiable instrument is discharged:

(1) By payment in due course by or on behalf of the principal debtor.

(2) By payment in due course by the party accommodated, where the instrument is made or accepted for accommodation.

(3) By the intentional cancellation thereof by the holder.

(4) By any other act which will discharge a simple contract for the payment of money.

(5) When the principal debtor becomes the holder of the instrument at or after maturity in his own right.

Party secondarily liable discharged.

§ 120. A person secondarily liable on the instrument is discharged:

(1) By an act which discharges the instrument.

(2) By the intentional cancellation of his signature by the holder.

(3) By the discharge of a prior party.

(4) By a valid tender of payment made by a prior party.

(5) By a release of the principal debtor, unless the holders' right of recourse against the party secondarily liable is expressly reserved.

(6) By any agreement binding upon the holder to extend the time of payment, or to postpone the holder's right to enforce the instrument, unless made with the assent of the party secondarily liable, or unless the right of recourse against such party is expressly reserved in the original instrument.

Party who pays may negotiate again —when.

§ 121. Where the instrument is paid by a party secondarily liable thereon, it is not discharged; but the party so paying it is remitted to his former rights as regards all prior parties, and he may strike out his own and all subsequent indorsements, and again negotiate the instrument, except:

(1) Where it is payable to the order of a third person, and has been paid by the drawer; and

(2) Where it was made or accepted for accommodation, and has been paid by the party accommodated.

Renunciation of rights of holder.

§ 122. The holder may expressly renounce his rights against any party to the instrument before, at or after its maturity. An absolute and unconditional renunciation of his rights against the principal debtor made at or after the maturity of the instrument discharges the instrument. But a renunciation does not affect the rights of a holder in due course without notice. A renunciation must be in writing, unless the instrument is delivered up to the person primarily liable thereon.

Unintentional cancellation.

§ 123. A cancellation made unintentionally, or under a mistake, or without the authority of the holder, is inoperative; but where an instrument or any signa-

ture thereon appears to have been cancelled, the burden of proof lies on the party who alleges that the cancellation was made unintentionally, or under a mistake or without authority.

Effect of material alteration.

§ 124. Where a negotiable instrument is materially altered without the assent of all parties liable thereon, it is avoided, except as against a party who has himself made, authorized or assented to the alteration and subsequent indorsers.

But when an instrument has been materially altered and is in the hands of a holder in due course, not a party to the alteration, he may enforce payment thereof according to its original tenor.

Material alterations.

§ 125. Any alteration which changes:

(1) The date.

(2) The sum payable, either for principal or interest.

(3) The time or place of payment.

(4) The number of the relations of the parties.

(5) The medium or currency in which payment is to be made.

Or which adds a place of payment where no place of payment is specified, or any other change or addition which alters the effect of the instrument in any respect, is a material alteration.

TITLE II.—BILLS OF EXCHANGE.

ARTICLE I.

Form and Interpretation.

Bill of exchange.

§ 126. A bill of exchange is an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand, or at a fixed or de-

terminable future time, a sum certain in money to order or to bearer.

Drawee—when liable.

§ 127. A bill of itself does not operate as an assignment of the funds in the hands of the drawee available for the payment thereof, and the drawee is not liable on the bill unless and until he accepts the same.

Joint drawees.

§ 128. A bill may be addressed to two or more drawees jointly, whether they are partners or not; but not to two or more drawees in the alternative or in succession.

Inland bill of exchange.

§ 129. An inland bill of exchange is a bill which is, or on its face purports to be, both drawn and payable within this State. Any other bill is a foreign bill. Unless the contrary appears on the face of the bill, the holder may treat it as an inland bill.

Drawee and drawer one person.

§ 130. Where in a bill drawer and drawee are the same person, or where the drawee is a fictitious person or a person not having capacity to contract, the holder may treat the instrument at his option, either as a bill of exchange or a promissory note.

Referee defined.

§ 131. The drawer of a bill and any indorser may insert thereon the name of a person to whom the holder may resort in case of need; that is to say, in case the bill is dishonored by non-acceptance or non-payment. Such person is called the referee in case of need. It is in the option of the holder to resort to the referee in case of need or not, as he may see fit.

ARTICLE II.

Acceptance.

Acceptance.

§ 132. The acceptance of a bill is the signification by the drawee of his assent to the order of the drawer. The acceptance must be in writing and signed by the

drawee. It must not express that the drawee will perform his promise by any other means than the payment of money.

How acceptance made.

§ 133. The holder of a bill presenting the same for acceptance may require that the acceptance be written on the bill, and if such request is refused may treat the bill as dishonored.

Acceptance may be on different paper.

§ 134. Where an acceptance is written on a paper other than the bill itself, it does not bind the acceptor except in favor of a person to whom it is shown and who, on the faith thereof, receives the bill for value.

Effect of unconditional promise in writing to accept.

§ 135. An unconditional promise in writing to accept a bill before it is drawn is deemed an actual acceptance in favor of every person who, upon the faith thereof, receives the bill for value.

Time to accept.

§ 136. The drawee is allowed twenty-four hours after presentment in which to decide whether or not he will accept the bill; but the acceptance, if given, dates as of the day of presentation.

When drawee deemed to have accepted.

§ 137. Where a drawee to whom a bill is delivered for acceptance destroys the same or refuses within twenty-four hours after such delivery, or within such other period as the holder may allow, to return the bill accepted or non-accepted to the holder, he will be deemed to have accepted the same.

May accept after dishonor, etc.

§ 138. A bill may be accepted before it has been signed by the drawer, or while otherwise incomplete, or when it is overdue, or after it has been dishonored by a previous refusal to accept, or by non-payment. But when a bill payable after sight is dishonored by non-acceptance and the drawee subsequently accepts it, the holder, in the absence of any different agreement, is entitled to have the bill accepted as of the date of the first presentment.

Acceptance, general or qualified.

§ 139. An acceptance is either general or qualified.

A general acceptance assents without qualification t the order of the drawer. A qualified acceptance in e press terms varies the effect of the bill as drawn.

General. § 140. An acceptance to pay at a particular plac is a general acceptance unless it expersly states tha the bill is to be paid there only and not elsewhere.

Qualified. § 141. An acceptance is qualified which is:

(1) Conditional; that is to say, which makes payment by the acceptor dependent on the fulfillment of a condition therein stated.

(2) Partial; that is to say, an acceptance to pay part only of the amount for which the bill is drawn.

(3) Local; that is to say, an acceptance to pay only at a particular place.

(4) Qualified as to time.

(5) The acceptance of some one or more of the drawees but not of all.

Holder may refuse qualified acceptance. § 142. The holder may refuse to take a qualified acceptance, and if he does not obtain an unqualified acceptance, he may treat the bill as dishonored by nonacceptance. Where a qualified acceptance is taken, the drawer and indorsers are discharged from liability on the bill, unless they have expressly or impliedly authorized the holder to take a qualified acceptance, or subsequently assent thereto. When the drawer or an endorser receives notices of a qualified acceptance, he must within a reasonable time, express his dissent to the holder, or he will be deemed to have assented thereto.

ARTICLE III.

Prescntment for Acceptance.

Presentment for acceptance. § 143. Presentment for acceptance must be made:

(1) Where the bill is payable after sight, or in any other case where presentment for acceptance is

necessary in order to fix the maturity of the instrument; or

(2) Where the bill expressly stipulates that it shall be presented for acceptance; or

(3) Where the bill is drawn payable elsewhere than at the residence or place of business of the drawee.

In no other case is presentment for acceptance necessary in order to render any party to the bill liable.

Bill must be presented for acceptance, etc.

§ 144. Except as herein otherwise provided, the holder of a bill which is required by the next preceding section to be presented for acceptance must either present it for acceptance or negotiate it within a reasonable time. If he fail to do so, the drawer and all indorsers are discharged.

Presentment—when, by whom and to whom.

§ 145. Presentment for acceptance must be made by or on behalf of the holder at a reasonable hour on a business day, and before the bill is overdue, to the drawer or some person authorized to accept or refuse acceptance on his behalf; and

(1) Where a bill is addressed to two or more drawees who are not partners, presentment must be made to them all, unless one has authority to accept or refuse acceptance for all, in which case presentment may be made to him only.

(2) Where the drawee is dead, presentment may be made to his personal representative.

(3) Where the drawee has been adjudged a bankrupt or an insolvent, or has made an assignment for the benefit of creditors, presentment may be made to him or to his trustee or assignee.

See sections 72 and 85.

§ 146. A bill may be presented for acceptance on any day on which negotiable instruments may be presented for payment under the provisions of sections seventy-two and eighty-five of this act.

Rule, when payable elsewhere than at place of business.

§ 147. Where the holder of a bill drawn payable elsewhere than at the place of business or the residence of the drawee has not time with the exercise of reasonable diligence to present the bill for acceptance before presenting it for payment on the day that it falls due the delay caused by presenting the bill for acceptance before presenting it for payment is excused and does not discharge the drawers and indorsers.

When presentment for acceptance excused and bill treated as dishonored.

§ 148. Presentment for acceptance is excused and a bill may be treated as dishonored by non-acceptance in either of the following cases:

(1) Where the drawee is dead or has absconded or is a fictitious person or a person not having capacity to contract by bill.

(2) Where, after the exercise of reasonable diligence presentment can not be made.

(3) Where, although presentment has been irregular, acceptance has been refused on some ground.

When dishonored by non-acceptance.

§ 149. A bill is dishonored by non-acceptance:

(1) When it is duly presented for acceptance and such an acceptance as is prescribed by this act is refused or can not be obtained; or

(2) When a presentment for acceptance is excused and the bill is not accepted.

When bill treated as dishonored by non-acceptance.

§ 150. Where a bill is duly presented for acceptance and is not accepted within the prescribed time, the person presenting it must treat the bill as dishonored by non-acceptance or he loses the right of recourse against the drawer and indorsers.

Right of recourse.

§ 151. When a bill is dishonored by non-acceptance, an immediate right of recourse against the drawers and indorsers accrues to the holder and no presentment for payment is necessary.

ARTICLE IV.

Protest.

When protest required.

§ 152. Where a foreign bill appearing on its face to be such is dishonored by non-acceptance, it must be duly protested for non-acceptance, and where such a bill which has not previously been dishonored by non-acceptance is dishonored by non-payment, it must be duly protested for non-payment. If it is not so protested, the drawer and indorser are discharged. Where a bill does not appear on its face to be a foreign bill, protest, thereof, in case of dishonor is unnecessary.

What protest must show.

§ 153. The protest must be annexed to the bill, or must contain a copy thereof, and must be under the hand and seal of the notary making it, and must specify:

(1) The time and place of presentment.

(2) The fact that presentment was made and the manner thereof.

(3) The cause or reason for protesting the bill.

(4) The demand made and the answer given, if any, or the fact that the drawee or acceptor could not be found.

By whom protest made.

§ 154. Protest may be made by:

(1) A notary public; or

(2) By any respectable resident of the place where the bill is dishonored, in the presence of two or more credible witnesses.

Protest made on day of dishonor.

§ 155. When a bill is protested, such protest must be made on the day of its dishonor, unless delay is excused as herein provided. When a bill has been duly noted, the protest may be subsequently extended as of the date of the noting.

Protested, when dishonored.

§ 156. A bill must be protested at the place where it is dishonored, except that when a bill drawn payable at the place of business or residence of some person

other than the drawee, has been dishonored by no acceptance, it must be protested for non-payment a the place where it is expressed to be payable; and n other presentment for payment to, or demand on, th drawee is necessary.

Bill protested for non-acceptance; protested for non-payment.

§ 157. A bill which has been protested for no acceptance may be subsequently protested for non-pay ment.

When acceptor becomes bankrupt or insolvent.

§ 158. Where the acceptor has been adjudged a bankrupt or an insolvent or has made an assignment for the benefit of creditors, before the bill matures, th holder may cause the bill to be protested for better se curity against the drawer and indorser.

When protest dispensed with.

§ 159. Protest is dispensed with by any circumstances which would dispense with notice of dishonor. Delay in noting or protesting is excused when delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, the bill must be noted or protested with reasonable diligence.

Protest of copy of bill, when original lost.

§ 160. Where a bill is lost or destroyed or is wrongly detained from the person entitled to hold it, protest may be made on a copy or written particulars thereof.

ARTICLE V.

Acceptance for Honor.

Acceptance for honor.

§ 161. Where a bill of exchange has been protested for dishonor by non-acceptance or protested for better security, and is not overdue, any person not being a party already liable thereon may, with the consent of the holder, intervene and accept the bill supra protest for the honor of any party liable thereon or for the honor of

the person for whose account the bill is drawn. The acceptance for honor may be for part only of the sum for which the bill is drawn, and where there has been an acceptance for honor for one party, there may be a further acceptance by a different person for the honor of another party.

Acceptance must be in writing.

§ 162. An acceptance for honor supra protest must be in writing and indicate that it is an acceptance for honor, and must be signed by the acceptor for honor.

For honor of drawer.

§ 163. Where an acceptance for honor does not expressly state for whose honor it is made, it is deemed to be an acceptance for the honor of the drawer.

Liability of acceptor for honor.

§ 164. The acceptor for honor is liable to the holder and to all parties to the bill subsequent to the party for whose honor he has accepted.

Extent of acceptor's liability.

§ 165. The acceptor for honor by such acceptance engages that he will, on due presentment, pay the bill according to the terms of his acceptance, provided it shall not have been paid by the drawee, and provided also, that it shall have been duly presented for payment and protested for non-payment and notice of dishonor given to him.

Maturity is date of non-acceptance.

§ 166. When a bill payable after sight is accepted for honor, its maturity is calculated from the date of the noting for non-acceptance, and not from the date of the acceptance for honor.

Must be protested before presented for payment.

§ 167. Where a dishonored bill has been accepted or honor supra protest or contains a reference in case of need, it must be protested for non-payment before it is presented for payment to the acceptor for honor or referee in case of need.

Presentment to acceptor for honor.

§ 168. Presentment for payment to the acceptor for honor must be made as follows:

(1) If it is to be presented in the place where the

protest for non-payment was made, it must be presented not later than the day following its maturity.

(2) If it is to be presented in some other place than the place where it was protested, then it must be forwarded within the time specified in section 104.

When section 81 applies.

§ 169. The provisions of section 81 apply where there is delay in making presentment to the acceptor for honor or referee in case of need.

When acceptor for honor dishonors.

§ 170. When the bill is dishonored by the acceptor for honor, it must be protested for non-payment by him.

ARTICLE VI.

Payment for Honor.

Payment for honor.

§ 171. Where a bill has been protested for non-payment, any person may intervene and pay it supra protest for the honor of any person liable thereon or for the honor of the person for whose account it was drawn.

How payment for honor attested.

§ 172. The payment for honor supra protest in order to operate as such and not as a mere voluntary payment, must be attested by a notarial act of honor which may be appended to the protest or form an extension to it.

What notarial act must show.

§ 173. The notarial act of honor must be founded on a declaration made by the payer for honor or by his agent in that behalf declaring his intention to pay the bill for honor and for whose honor he pays.

Two or more parties paying bill for honor.

§ 174. Where two or more persons offer to pay a bill for the honor of different parties, the person whose payment will discharge most parties to the bill is to be given the preference.

Who are discharged by the payment of bill for honor.

§ 175. Where a bill has been paid for honor all parties subsequent to the party for whose honor it is paid are discharged, but the payer for honor is subrogated for, and succeeds to, both the rights and duties

of the holder as regards the party for whose honor he pays and all parties liable to the latter.

Holder refusing payment before protest.

§ 176. Where the holder of a bill refuses to receive payment supra protest, he loses his right of recourse against any party who would have been discharged by such payment.

Payer for honor entitled to bill and protest.

§ 177. The payer for honor on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonor, is entitled to receive both the bill itself and the protest.

ARTICLE VII.

Bills in a Set.

Bills in sets must be numbered and refer to each other.

§ 178. Where a bill is drawn in a set, each part of the set being numbered and containing a reference to the other parts, the whole of the parts constitute one bill.

Holder whose title first accrues owner of the bill.

§ 179. Where two or more parts of a set are negotiated to different holders in due course, the holder whose title first accrues is as between such holders the true owner of the bill. But nothing in this section affects the rights of a person who in due course accepts or pays the part first presented to him.

Liability of holder and subsequent endorsers.

§ 180. Where the holder of a set indorses two or more parts to different persons he is liable on every such part, and every indorser subsequent to him is liable on the part he has himself indorsed, as if such parts were separate bills.

Acceptance written on one part only.

§ 181. The acceptance may be written on any part and it must be written on one part only. If the drawee accepts more than one part, and such accepted parts are negotiated to different holders in due course, he is liable on every such part as if it were a separate bill.

How a bill drawn in a set should be paid.

§ 182. When the acceptor of a bill drawn in a set pays it without requiring the part bearing his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder in due course he is liable to the holder thereon.

When a payment of one part of such bill discharges the whole.

§ 183. Except as herein otherwise provided where any one part of a bill drawn in a set is discharged by payment or otherwise, the whole bill is discharged.

TITLE III.—PROMISSORY NOTES AND CHECKS.

ARTICLE I.

Negotiable promissory note.

§ 184. A negotiable promissory note within the meaning of this act is an unconditional promise in writing made by one person to another, signed by the maker engaging to pay on demand or at a fixed or determinable future time, a sum certain in money to order or to bearer. Where a note is drawn to the maker's own order, it is not complete until indorsed by him.

A check.

§ 185. A check is a bill of exchange drawn on a bank payable on demand. Except as herein otherwise provided, the provisions of this act applicable to a bill of exchange payable on demand apply to a check.

When drawer discharged from payment.

§ 186. A check must be presented for payment within a reasonable time after its issue, or the drawer will be discharged from liability thereon to the extent of the loss caused by the delay.

Certified check equivalent to acceptance.

§ 187. Where a check is certified by the bank on which it is drawn, the certification is equivalent to an acceptance.

Check certified discharges drawer, etc.

§ 188. Where the holder of a check procures it to be accepted or certified, the drawer and all indorsers are discharged from liability thereon.

Bank not liable until it accepts or certifies a check.

§ 189. A check of itself does not operate as an assignment of any part of the funds to the credit of the

drawer with the bank, and the bank is not liable to the holder, unless and until it accepts or certifies the check.

TITLE IV.—GENERAL PROVISIONS.

ARTICLE I.

§190. In this act, unless the context otherwise requires: Words used in this act defined.

"Acceptance" means an acceptance completed by delivery or notification.

"Action" includes counterclaim and set-off.

"Bank" includes any person or association of persons carrying on the business of banking, whether incorporated or not.

"Bearer" means the person in possession of a bill or note which is payable to bearer.

"Bill" means bill of exchange, and "note" means negotiable promissory note.

"Delivery" means transfer of possession, actual or constructive, from one person to another.

"Holder" means the payee or indorsee of a bill or note, who is in possession of it, or the bearer thereof.

"Indorsement" means an indorsement completed by delivery.

"Instrument" means negotiable instrument.

"Issue" means the first delivery of the instrument, complete in form, to a person who takes it as a holder.

"Person" includes a body of persons, whether incorporated or not.

"Value" means valuable consideration.

"Written" includes printed, and "writing" includes print.

§ 191. The person "primarily" liable on an instrument is the person who, by the terms of the instrument, Persons primarily liable and secondarily liable.

is absolutely required to pay the same. All other parties are "secondarily" liable.

"Reasonable time" and "unreasonable time."

§ 192. In determining what is a "reasonable time" or an "unreasonable time" regard is to be had to the nature of the instrument, the usage of trade or business (if any) with respect to such instruments, and the facts of the particular case.

Last day on which act can be done.

§ 193. Where the day or the last day, for doing an act herein required or permitted to be done falls on Sunday or on a holiday, the act may be done on the next succeeding secular or business day.

§ 194. The provisions of this act do not apply to negotiable instruments made and delivered prior to the passage hereof.

§ 195. All laws inconsistent with this act are hereby repealed.

Approved March 24, 1904.

CHAPTER 103.

AN ACT appropriating money for the benefit of Eastern Kentucky Lunatic Asylum for the Insane.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Appropriation.

§ 1. That there is hereby appropriated out of the general revenue of the State for the benefit of the Eastern Kentucky Asylum for the Insane, at Lexington, to be expended by the Board of Commissioners thereof, as hereinafter set forth, the following named sums for the specific purposes, constructions, improvements and equipments of the same herein named, and set forth as follows, to-wit:

"For deficit, five thousand six hundred and fifty dollars.

"For new engine and dynamo for electric light plant, $5,000.

"For storeroom, $5,000."

How money drawn.

§ 2. The money hereby appropriated shall be drawn on drafts of the Board of Commissioners of said institution, and upon such draft or drafts, not exceeding in the aggregate the sum aforesaid, being made upon him, the Auditor of Public Accounts shall draw his warrant or warrants upon the Treasurer of this State in favor of the treasurer of said asylum, for any sum or sums of money not exceeding the amount hereby appropriated to said institution, but no part of such money shall be drawn from the treasurer of said institution, except in payments for work and improvements mentioned in section 1 of this act.

Bids for labor and material.

§ 3. The president of the Board of Commissioners shall advertise for bids for furnishing all labor and materials of every kind and description necessary for the construction, erection and completion of the buildings, the making of the improvements and repairs mentioned in section 1, except such labor and materials, if any, as may be furnished by the employes or patients of said institution; and all such bids shall be opened in the presence of the Board of Commissioners, and it shall be the duty of the latter to accept such bid or bids as it may deem the lowest and best; and if, in its judgment, all or any of such bids shall be unsatisfactory, said Board of Commissioners may reject any and all such bids, and readvertise for others in the same manner, and so on until it shall be satisfied to accept bids and tenders; and when contracts for the erection of said buildings, the furnishing of labor and materials and the doing of the work and

making the said repairs and improvements shall hav
been in accord with said bids made and entered int
the Board of Commissioners shall retain from the co
tract price thereof amount sufficient to secure th
faithful and complete performance of any and all suc
contracts, and shall not pay the money so retained, n
any part thereof, until such contract shall have bee
fully and faithfully performed and the work accepte
and approved by the Board of Commissioners.

Itemized account.

§ 4. The Board of Commissioners of said institu
tion shall not pay, or cause to be paid, any part of th
money appropriated by this act to any contractor
or other person or persons, employed in the construc
tion, erecting or furnishing material for the erection
work and repairs authorized by this act, until such
contractor or contractors or other persons aforesaid
shall deliver to said Board, or its president thereof, a
itemized statement and account of all material so fur
nished or labor performed, for which payment may
be requested or demanded, which said itemized state
ment or account shall be approved and endorsed by
the architect or superintendent employed by said
Board of Commissioners, and verified by the oath of
such contractor, or other person or persons presenting
such accounts for payment, and if such account is
found to be just and correct, and is approved by the
Board, the secretary of the Board of Commissioners
shall note the said facts in the form of a certificate on
or appended to such itemized account, and the same
shall be paid as other accounts, or bills, or claims
against said institution are paid, by order of the Board
of Commissioners thereof, but the money hereby ap-
propriated shall be kept separate and apart from the
other funds of the institution, and all accounts and
expenditures thereof shall be kept and stated, and ac-

counted for in separate and distinct statements and accounts of disbursements.

Statement filed with auditor.

§ 5. The Board of Commissioners shall, within three months after the completion of the buildings and improvements provided for in the first section hereof, make an itemized statement showing each and every item of expenditure made by said board, under the provisions of this act, verified by the oath of the president of the Board, which statement shall be filed with the Auditor of Public Accounts, accounting for all money appropriated by this act to said institution, and upon such settlement and statement said Board of Commissioners shall pay back into the treasury any unexpended balance made to said institution, which may remain in the hands of said institution.

§ 6. Because of the urgent need of the buildings and improvements herein contemplated, an emergency is declared to exist, and this act shall take effect from and after its approval by the Governor.

Approved March 24, 1904.

CHAPTER 104.

AN ACT relating to revenue and taxation, providing for license taxes on compounded, rectified, adulterated or blended distilled spirits, known and designated as single stamped spirits, and providing penalties for violation of its provisions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

License for rectifying, etc.

§ 1. That every corporation, association, company, co-partnership or individual engaged in this State in the business or occupation of compounding, rectifying, adulterating or blending distilled spirits,

known and designated as single stamped spirits, shall pay to the Commonwealth of Kentucky a license tax therefor.

License fixed.

§ 2. The license tax imposed by the first section of this act shall be based upon the amount of distilled spirits compounded, rectified, adulterated or blended, viz.:

Fifty cents for each barrel so rectified, compounded, adulterated or blended distilled spirits, to be of standard measure.

Twenty-five cents for each package containing less than one barrel of such compounded, rectified, adulterated or blended distilled spirits.

Report to auditor.

§ 3 It shall be the duty of each corporation, association, company, co-partnership or individual engaged in this State in the business or occupation of compounding, rectifying, adulterating or blending distilled spirits, known and designated as single stamped spirits, to make and deliver to the Auditor of Public Accounts, on the thirty-first day of December, 1904 (or within ten days), and at the end of each six months thereafter, a report, sworn to, showing the number of barrels, standard measure, and the number of packages containing less than one barrel, of compounded, rectified, adulterated or blended, distilled spirits, known and designated as single stamped spirits, sold during the six months then ended, and at the same time pay into the State Treasury, through the Auditor, the amount of taxes due the State, as imposed by this act.

Penalty provided for failure to make said report.

§ 4. Any compounder, rectifier or blender, liable for the taxes imposed by this act, or embraced by its provisions, who shall wilfully fail or refuse to make and deliver to the Auditor sworn reports required by section three of this act, shall be deemed guilty of a

misdemeanor, and, upon conviction, shall be fined five hundred dollars for each offense, to be recovered by indictment in the Franklin Circuit Court.

§ 5. The provisions of this act shall apply only to such corporations, companies, associations, co-partnerships or individuals actually engaged in compounding, rectifying, adulterating or blending distilled spirits. Application of act.

§ 6. All acts and parts of acts inconsistent or in conflict with this act are hereby repealed.

Approved March 24, 1904.

CHAPTER 105.

AN ACT to amend an act, entitled "An Act providing for the creation and regulation of private corporations," which became a law April 5, 1893, and especially section 24 of article 1, being section 564, Kentucky Statutes, and section 190 of article 5, being section 771; Kentucky Statutes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section 24 of article 1 of an act, entitled "An act providing for the creation and regulation of private corporations," which became a law April 5, 1893, being section 564, Kentucky Statutes, be amended, so that the said section, as amended, shall read as follows: Classes of shares of stock.

"§ 24. Any corporation organized under this law may divide its shares into classes, such as preferred, common and deferred shares, or as may be otherwise designated, and it may give to each of the several classes such priority of right in the payment of the

dividends, and in the redemption of the shares, as may be prescribed in the rules and regulations adopted by the shareholders. But no preferred stock shall be issued except for cash or its equivalent, nor for less than the part value of the shares, which shall be stated in the certificates representing the preferred and common stock respectively. Any such corporation, all of whose outstanding stock is common stock, may, by a resolution adopted by the vote of the holders of not less than two-thirds in amount of its outstanding capital stock, cast in person or by proxy, at a special meeting of stockholders called for the purpose and of which notice shall have been given as provided in the by-laws of the company, at least twenty days before the date of the meeting, or at the annual meeting of the stockholders of the company, or by the written consent of the holders of not less than two-thirds in amount of its capital stock, distribute or convert its outstanding capital stock into preferred and common stock in such proportion as shall be fixed by such resolution or written consent: *Provided*, That all holders of stock of the company at the time of such distribution shall be entitled to the same pro rata proportions of such preferred and common stock. And by a resolution adopted by the like vote or by such written consent, the capital stock of any corporation may be increased and the increased stock may be common or preferred stock, or partly one and partly the other, as may be fixed by such resolution or written consent. Any such preferred stock hereinbefore referred to shall be entitled to receive quarterly, semi-annual or annual dividends thereon at such rate as may be prescribed by the resolution or written consent under which the same was issued, and such dividends shall be payable, as provided in the said resolution or written consent,

before any dividends shall be declared on the common stock; and on the dissolution of the company, voluntarily or otherwise, the holders of preferred stock shall be entitled to have their shares redeemed at par before any distribution of any part of the assets of the company shall be made to the holders of the common stock."

Power to borrow money.

§ 2. That section 190, of article 5, of the same act, being section 771, Kentucky Statutes, be amended, so that the said section, as amended, shall read as follows:

"§ 190. Corporations organized under this law shall have power to borrow such sums of money as may be necessary for funding their floating debt or for completing, equipping or operating their road or any part thereof, or for paying any debts incurred for such purposes, and to issue and dispose of their bonds or obligations for any amount necessarily borrowed for such purpose, and to mortgage their corporate property and franchises, or any part thereof, to secure the payment of any debt contracted or to defray any expenditures for the purposes aforesaid; and may confer on any holder of such bonds or obligations the right to convert the same into the stock of such company; and may provide that the preferred stock shall be convertible into the bonds of the company. The stock of the company may be sold at such time and place, either within or without the State, as may be deemed advisable, and the proceeds thereof applied for the purposes for which it was issued. Any such corporation, all of whose outstanding stock is common stock, may, by a resolution adopted by the vote of the holders of not less than two-thirds in amount of its outstanding capital stock, cast in person or by proxy, at a special meeting of stockholders called for the purpose,

Sale of stock, etc.

and of which notice shall have been given, as provided in the by-laws of the company, at least twenty days before the date of the meeting, or at the annual meeting of the stockholders of the company, or by the written consent of the holders of not less than two-thirds in amount of its capital stock, distribute or convert its outstanding capital stock into preferred and common stock in such proportions as shall be fixed by such resolution or written consent: *Provided,* That all holders of stock of the company, at the time of such distribution, shall be entitled to the same pro rata proportions of such preferred and common stock. And by a resolution adopted by the like vote or by such written consent, the capital stock of any corporation may be increased, and the increased stock may be common or preferred stock, or partly one and partly the other, as may be fixed by such resolution or written consent. Any such preferred stock hereinbefore referred to shall be entitled to receive quarterly, semi-annual or annual dividends thereon at such rate as may be prescribed by the resolution or written consent, under which the same was issued, and such dividends shall be payable as provided in the said resolution or written consent, before any dividends shall be declared on the common stock; and on the dissolution of the company, voluntarily or otherwise, the holders of preferred stock shall be entitled to have their shares redeemed at par before any distribution of any part of the assets of the company shall be made to the holders of the common stock."

Approved March 25, 1904.

CHAPTER 106.

AN ACT to amend section 19, chapter 4, of an act, entitled "An Act to create a board of penitentiary commissioners and regulate the penal institutions of this Commonwealth," Session Acts, 1898.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Salaries of officers and guards of penitentiaries.

§ 1. That the word "sixty," in section 19 of chapter 4 of an act entitled, "An act to create a Board of Penitentiary Commissioners and regulate the penal institutions of this Commonwealth," be stricken out, and in lieu thereof the word "seventy-five" inserted, so that said section, when amended, will read as follows:

§ 19. The salaries of the wardent, deputy wardens, physicians, chaplains, and the wages of the guards, shall be paid monthly out of the State Treasury, and the Auditor of Public Accounts shall draw his warrant upon the Treasury therefor, in favor of each of said officials, upon the written order of the chairman of the commissioners, and they shall respectively receive the following salaries, to-wit: The warden, two thousand dollars per annum; the deputy warden, one thousand two hundred dollars per annum; the physician, one thousand two hundred dollars per annum; the clerk, one thousand two hundred dollars per annum; the chaplain, one thousand two hundred dollars per annum; the guards or assistance for each penitentiary, seventy-five dollars each per month. No official connected with the penitentiaries shall be directly or indirectly connected or concerned with any contract for furnishing the warden or any contractor any materials for manufacture or use in the penitentiary, or any supplies or produce to be used in the penitentiary, or by the convicts, in any way whatever; and they shall not be interested in a

financial way with any business carried on by convict labor. For a violation of the provisions of this section, the officials so violating shall be, for each offense, fined one thousand dollars.

Approved March 24, 1904.

CHAPTER 107.

AN ACT prohibiting the sale or transportation of wild turkeys, pheasants, grouse, partridge and quail, within the State of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Unlawful to sell.

§ 1. That it shall be unlawful in the State of Kentucky, at any time, to buy, sell, expose for sale, offer for sale, or have in possession for the purpose of bartering or sellings any wild turkeys, pheasants, grouse, partridge or quail, which have been killed within this State.

Transportation of

§ 2. That it shall be unlawful for any person, corporation or common carrier to receive for transportation, or to transport, or cause to be transported, or to have in possession with the intent to transport, or to secure the transportation of, within or without this State, any of the birds or fowls mentioned in section one of this act, which have been killed within this State.

Provided, however, That it shall not be unlawful for such person, corporation or common carrier to transport a hunter with his game lawfully killed by him within this State.

Separate offenses.

§ 3. Each bird or fowl so bought, sold, offered for sale, had in possession for sale or transportation, received for transportation, or transported, contrary to

the provisions of this act, shall constitute a separate offense.

§ 4. Whoever violates any provisions of this act shall be fined not less than ten dollars, nor more than twenty-five dollars for a first offense, and not less than twenty-five dollars nor more than fifty dollars for any subsequent offense. Fine.

Approved March 24, 1904.

CHAPTER 108.

AN ACT to define the duties of the county surveyors, and to preserve the surveys made by them.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the surveyor of each county, before he enters upon the duties of his office, shall file with the county clerk a certificate from some college, or from the circuit judge of the district of which the county is a part, that he is competent to perform the duties of the county surveyor's office. Certificate of qualification.

§ 2. That any business in the surveying and civil engineering profession, the courts can order him to do, and fine him if he fails to comply with the court's order, must be considered as belonging to the office of county surveyor, unless, by order of court, another surveyor is named and appointed, such as the processioning of land the locating of lost corners, and dividing lines, the survey and division of an estate, land being sold by order of court, the surveying, locating, and superintending the construction of roads, canals, levies and ditches that are builded by taxation; and that in all orders of said court he shall have the selection of chain- Duties of surveyor.

men and other necessary help, and the fees for such to be taxed as cost.

Members of Committees.

§ 3. The surveyor shall be made a member of committees or commissioners appointed by the courts to locate, inspect, care for, and report on bridges and other public improvements.

Record.

§ 4. It shall be the duty of the county surveyor to keep a record of plats, and explanatory notes of all surveys made by him or his deputies, and for each land plat so recorded---metes and bounds, courses and distances, with explanatory notes—his fee for such record shall be one dollar, to be paid by the party interested, and for each extra share, or tract connected with or represented thereon, fifty cents; and for a plat and certificate of such record given by the surveyor, one dollar, and copies of the record, certified to by the county surveyor, shall be considered as legal testimony in any court. And that no survey or re-survey of real estate hereafter made by any person, except the county surveyor or his deputy, shall be considered as legal testimony in any court, unless such surveys are made by mutual consent reduced to writing and signed by the parties, and recorded in the county surveyor's office, or made by order of court.

When no record kept.

§ 5. That the surveyor's record book shall be furnished by the county court, and all records therein shall be the property of the county, and be kept at the county seat, in the surveyor's office provided by the county court.

§ 6. That in counties where there has been no record plat books kept by the county surveyors, the fiscal court, by contract with the county surveyor, may order him to record by plat and explanatory notes, such surveys as he has made and preserved while in office, and believed to be reliable, and such other surveys made and

certified to by his predecessors in office, as the court may deem necessary to be in the county surveyor's record. And that any one having a certified copy of a survey made by a county surveyor or deputy, may have the same plated and recorded in the surveyor's office. And that any survey made in the past, except those made by a county surveyor or deputy, shall not be plated in the record books, unless as an explanatory note to some work performed on the ground by the county surveyor or his deputy.

§ 7. That a court, in considering the application of the appointment of another surveyor for a special work, must give the benefit of any doubt or preference to the county surveyor.

Approved March 24, 1904.

CHAPTER 109.

AN ACT to amend an act, entitled "An Act for the government of cities of the first class," approved July 1, 1893.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That sections 259 and 265 of an act approved July 1, 1893, entitled, "An act for the government of cities of the first class," which are sections 2744 and 2750 of the Kentucky Statutes, be, and the same are hereby repealed.

Repeals sections 2744 and 2750 of Ky. Statutes.

§ 2. That the word "general" be inserted before the words "ordinances" and "ordinance" wherever they occur in section 266 of said act, which is section 2751 of the Kentucky Statutes, so that said section, when thus amended, shall read as follows:

Ordinances to remain in force where not inconsistent herewith. Biannual publication.

"All general ordinances of the city now in force and not in conflict with this act, shall continue in force until

repealed by the general council, but not longer than two years from the first election of the general council under this act, after which time there shall be a biennial publication of the general ordinances of the city, and no general ordinance shall be operative unless included and published in said biennial compilations, or unless passed subsequent to the last biennial publication. Immediately after the passage of this act, the city attorney shall codify the general ordinances of the city, and add thereto such provisions as may be necessary to carry out the purposes of this act. The Code so prepared shall be promptly transmitted to the Mayor and general council."

Condemnation of property for park purposes.

§ 3. That section 89 of said act, which is section 2852 of the Kentucky Statutes, be, and the same is, hereby repealed, and in lieu thereof the following shall constitute said section, to-wit:

"Whenever, in the opinion of said Board of Park Commissioners, property shall be needed for any park purposes contemplated in this act, either within or beyond the boundaries of the city in the county in which such city is located, the said Board may, by resolution reciting such need, order the condemnation of such property, and proceedings for such condemnation shall be in the Jefferson Circuit Court, and conducted in the name of said Board by the city attorney. Such proceedings shall be commenced by petition and summons, and carried on as nearly as may be as actions at law by ordinary proceedings are conducted. Warning orders against non-residents, absent defendants or unknown owners of property shall be published at least three times in two daily papers published in such city, the last publication being at least ten days before the trial. In such proceedings for condemnation, the owners of

distinct parts of any one general tract sought to be condemned may be included in one proceeding, or any one or more of them holding contiguous properties may be proceeded against in a separate action. The court in which such proceedings for condemnation is instituted shall make such orders, rules and judgments as will secure a fair trial by an impartial jury, which shall be summoned under order of court. Such jury shall consist of twelve free-holders of such city or county, and such trial for condemnation shall have precedence on the docket of the court, as soon as the parties are before the court and the issues made up. The jurors in such actions for condemnation shall be sworn to ascertain and determine truly and impartially by their verdict the amount of compensation each owner will be entitled to receive if his land or property described in the petition be condemned. And in assessing damages to the owner of the property so condemned, it shall be competent for the jury to consider the benefits and advantages, if any, that to such owner will result from the proposed improvements, and to set off the same against such damages other than for the value of the property taken. The court in which such proceedings are instituted shall have the power to assign a day for the trial of the case as soon as the petition is filed. Upon return of the verdict of the jury, the court shall enter judgment vesting in the Board of Park Commissioners of the city, the title to the property described and condemned, the said judgment to take effect upon the payment into court by said Board of the amount of money named in the verdict, and the taxed costs of the proceedings, but said Board of Park Commissioners shall have sixty days within which to make said compensation and payment; and if the same be not made within such time, the said condemnation shall be deemed and treated as aban

doned, and the verdict and judgment set aside, and proceedings dismissed at the cost of said Board; but without prejudice to any subsequent proceedings.

That no proceeding now pending and undetermined for the condemnation of property for park purposes shall be affected by this act, but the same shall be governed by existing laws.

Condemnation for municipal purposes.

§ 4. That the following words be added to section 99 of said act, which is section 2831 of the Kentucky Statutes, viz.: "The proceedings for the condemnation of property for such purposes shall be instituted and prosecuted in the name of the city, by the city attorney as provided in this act for the condemnation of property for park purposes," so that said section when thus amended shall read as follows:

"Whenever property shall be needed for appropriate municipal purposes, either within the boundaries of the city or the county, the board of public works may, with the consent of the mayor, if the amount be under two thousand dollars, order the condemnation of such property; and if the amount be over two thousand dollars may, with the consent of the mayor and the general council, order the condemnation of such property. The proceedings for the condemnation of property for such purposes shall be instituted and prosecuted in the name of the city, by the city attorney, as provided in this act for the condemnation of property for park purposes."

Approved March 24, 1904.

CHAPTER 110.

AN ACT to appropriate sixty-six thousand one hundred and thirty-eight dollars for the completion and equipment of the cell house at the branch penitentiary at Eddyville, Ky., and to provide improvements and additions at the State Penitentiary at Frankfort.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

$19,700 appropriated.

1. That the north top section of the main chair shop be extended and the roof raised to match the balance of the building. Also that the north three sections of the top of the rattan shop building be raised and extended covering the three sections, and that the amount not to exceed nineteen thousand seven hundred dollars is hereby appropriated for the said purpose.

Dust collecting system—appropriation for.

2. WHEREAS, The vast quantities of sawdust and sand paper dust in the chair shop at the Frankfort penitentiary makes it unhealthy for the men; be it further enacted that a perfected dust collecting system be installed in the chair plant to remove the dust and debris, and that the sum not to exceed six thousand four hundred and thirty-eight dollars is hereby appropriated for this purpose.

Appropriation of $40,000.

3. That the sum of forty thousand dollars, or so much thereof as may be necessary, out of the funds in the State Treasury not otherwise appropriated, is hereby appropriated to complete the cell building and install the necessary heating and electrical equipments and the enlargement and betterment of the water works plant at Eddyville.

I disapprove section (1) one of this bill appropriating $19,700.00 for enlarging the chair factory, &c.

I disapprove section (2) two of this bill appropriating $6,438.00 for buying a dust cleaner for chair factory, &c.

I approve section (3) three of this bill appropriating $40,000.00 for completing the new cell house at the Eddyville penitentiary.

March 24, 1904. J. C. W. BECKHAM, *Governor.*

CHAPTER 111.

AN ACT to amend subsection 2, and subsection 26, of section 3490, article 5, chapter 89, of the Kentucky Statutes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Amends section 3490, Ky. Statutes.

§ 1. That subsection 2 of section 3490, article 5, chapter 89, of the Kentucky Statutes, be amended by adding thereto the following words: "And not exceeding one dollar to meet the principal and interest on, and provide a sinking fund for the extinction of any bonded debt contracted before the adoption of the present Constitution, provided no greater levy to pay such indebtedness be authorized by the laws existing at the time of the creation of such debt," so that said subsection two when amended shall read as follows:

Levy and collection of ad valorem taxes.

"2. LEVY AND COLLECTION OF AD VALOREM TAXES. To levy and collect for municipal purposes an annual ad valorem tax not exceeding seventy-five cents on every hundred dollars of all property made taxable by law for State purposes; in addition not exceeding fifty cents on the hundred dollars worth of property taxable for State purposes, for the maintenance of public schools, or the erection of buildings for public school purposes; and not exceeding fifty cents to meet the principal and interest of any bonded debt hereinafter authorized; and not exceeding one dollar to meet the principal and interest on, and provide a sinking fund for the extinction of any bonded debt contracted before the adoption of the present Constitution, provided no greater levy to pay such indebtedness be authorized by the laws existing at the time of the creation of such debt."

§ 2. That subsection 26, of section 3490, article 5, chapter 89, of the Kentucky Statutes, shall be amended by inserting the words "or in this act," after the word "laws," in the ninth line thereof, so that said subsection, when amended, shall read as follows:

Power to incur indebtedness, etc.

"26. POWER TO INCUR INDEBTEDNESS—TAXATION TO PAY—BONDS. The board of council, aside from the indebtedness herein authorized shall have no power to incur an indebtedness on behalf of the city which can not be met out of the revenue of the current fiscal year; but nothing contained in this act shall be construed to prevent any city having an indebtedness contracted under laws existing at the date of the adoption of the present Constitution of Kentucky from levying and collecting such taxes for the payment of such indebtedness, and the interest thereon, as are provided for in such laws, or in this act, in addition to the taxes herein authorized to be levied and collected; and in payment of the bonded and floating debt of any such city existing at the time of the passage of this act, authorized by law, the board of council may issue renewal bonds or funding bonds, bearing not exceeding six per cent. per annum interest: *Provided,* That the issual of said renewal and funding bonds shall not exceed the principal of said bonded and floating debt, and said renewal and floating bonds shall not be sold for less than par and accrued interest. All bonds issued by any city shall be signed by the mayor or chief executive, and countersigned by the clerk of the city, with the seal of the city affixed thereto.

§ 3. This act shall take effect according to the provisions of the Constitution.

Approved March 24, 1904.

CHAPTER 112.

AN ACT to amend an act and amendments thereto, entitled "An Act for the government of cities of the fourth class," which became a law June 28, 1893, and being article 5, of chapter 89, of the Kentucky Statutes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Sinking fund.

§ 1. That clause 2 of section 9, of an act, entitled "An act for the government of cities of the fourth class," which became a law June 28, 1893, be amended so that said clause shall read as follows:

Additional tax by vote.

"To levy and collect for municipal purposes an annual ad valorem tax, not exceeding seventy-five cents on every $100 of all property made taxable by law for State purposes; in addition, not exceeding fifty cents on the $100 worth of property taxable for State purposes, for the maintenance of public schools, or the erection of buildings for public school purposes; and not exceeding fifty cents to meet the principal and interest of any bonded debt hereinafter authorized; and not exceeding one dollar to meet the principal and interest on, and provide a sinking fund for the extinction of any bonded debt contracted before the adoption of the present Constitution: *Provided*, No greater levy to pay such indebtedness be authorized by the laws existing at the time of the creation of such debt.

"*And, provided further*, That upon approval of a majority of the voters voting upon the question, at an election to be ordered by the mayor, upon the approval of the city council, then the city council may levy an additional tax of not exceeding fifteen cents on the $100 worth of property for the maintenance of public schools or the erection of buildings for public school purposes.

That in other respects said election shall be ordered and held in the manner provided for elections to establish a graded common school."

Amount necessary for current annual expenses determined by board 30 days. prior to levy.

§ 2. That section 96 of said act be amended, so that said section as amended and re-enacted shall read as follows:

"Said board shall, within thirty days prior to the time prescribed for the levy to be made in the charter of cities of the fourth class, approximately ascertain the amount of money necessary to be used to defray the expenses of maintaining the schools, improving or constructing buildings, et cetera, thereof, and any liquidation of the liabilities during the current fiscal year, and report the same, together with the estimated amount to be received from the common school fund of the State, interest on bonds, endowments, et cetera, to the city auditor or clerk, who shall thereupon report the same to the city council, and the said city council shall make the necessary levy, and collect the tax to provide suitable school buildings, and to defray the general expenses necessary for school purposes: *Provided,* That the levy for any one year shall not exceed that fixed by law on each $100 of value of taxable property in the city, as returned by the Board of Equalization. Said tax shall be paid to the board or authorized agent of same, as fast as collected."

§ 3. An emergency is declared to exist, and this act shall go into effect from and after its passage.

Approved March 24, 1904.

CHAPTER 113.

AN ACT relating to the printing and binding of the State Reports containing the decisions of the Court of Appeals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Judges of appellate court of ex officio commissioners to let contract.

§ 1. That the judges of the court of appeals shall be ex officio commissioners to let contracts for the printing and binding of the State Reports containing the decisions of the court of appeals. The chief justice shall be chairman of the board of commissioners; he or any three of the commissioners may, at any time call a meeting thereof, and four of the commissioners shall constitute a quorum. The commissioners shall transact all business at stated or special meetings and shall cause to be kept a record of their proceedings.

Commissioners of public printing.

§ 2. All provisions of existing laws referring to the commissioners of public printing shall be regarded as referring to the commissioners named herein so far as those provisions relate to or affect the printing and binding of the State Reports containing decisions of the court of appeals, except provisions relating to the furnishing of paper, stationery and supplies for such printing and binding.

Printing and binding of State reports—how let.

§ 3. The commissioner named herein shall between the first day of August next preceding the termination of the existing contract for the printing and binding of the first class and the first day of November next thereafter, and biennially thereafter between the first day of August and the first day of November, give notice, for a period of at least thirty days, in at least one newspaper in each of the cities of Frankfort, Louisville, Lexington, Covington, Paducah, Kentucky, and Cincinnati,

Ohio, that sealed proposals will be received at the office of the clerk of the court of appeals for the executing of the printing and binding of the State reports containing the decisions of the court of appeals, for the term of two years from and after the first Monday in January next ensuing, at a certain rate per centum not to exceed the rates specified in the existing law relating to the public printing and binding.

To whom let.

§ 4. Within two days after the expiration of the time for receiving proposals as aforesaid, the commissioners, or any four of them, shall open all such proposals, and shall proceed publicly to allot the printing and binding provided for herein to the person who proposes to execute the same at the lowest rate per centum not to exceed the rates prescribed by law.

Bids.

§ 5. The proposals authorized to be received by this law shall be sealed up, addressed and delivered to the clerk of the court of appeals, and be endorsed "proposals for the printing and binding of the State Reports," and the clerk shall carefully keep them until they are opened by the commissioners according to law.

Contractor.

§ 6. The contractor for the printing and binding provided for herein shall file and preserve one copy of each volume of the State Reports printed by him, which he shall deliver to the chief justice, with his account for same, in which account shall be specifically stated the number of copies of each volume printed and bound by him, the number of ems composition in each, the number of tokens or quires of press work in each, with the kind and quantity of paper used. He shall also be required to execute bond to the Commonwealth in a sum to be fixed by the commissioners for the faithful performance of his contract, which sum shall be stated in the advertisement for bids. If at any time in the opinion of the commissioners the contractor should fail

to promptly and satisfactorily perform his contract, then they shall cancel his contract and re-let the contract for the unexpired term after giving a similar notice in newspapers to that required by section three hereof; and any person who enters into a contract under the provisions of this act shall be deemed to accept the contract subject to all the provisions herein contained.

Duty of reporter of said court.

§ 7. In order that there may be no delay in the prompt publication of said reports, the judges of the court of appeals shall see that the reporter of said court shall diligently furnish said printer the decisions of the court, marked for publication, properly digested, and upon his failure to do so the court may remove him from his office as reporter; and whenever at any time in the opinion of the judges of said court it shall appear to them to be necessary, they may allow the reporter a reasonable sum for clerk hire, not to exceed five hundred dollars per annum, which shall be paid monthly out of the State Treasury upon the order of said court, for such time as it may be allowed.

§ 8. So much of sections 956 and 957 of chapter 35, article 1 subdivision 2 title, courts of justice, and of chapter 105, title printing, binding and stationery of the Kentucky Statutes as may be in conflict with this act are hereby repealed.

§ 9. By reason of the accumulation of the work in the hands of the reporter, an emergency is declared, and this act so far as it applies to the reporter shall take effect from its passage.

Approved March 25, 1904.

CHAPTER 114.

AN ACT to amend and re-enact an act, entitled "An Act relating to courts of justice," approved June 10, 1893, being paragraph 25, of section 965, Kentucky Statutes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Terms of court.

That section seventeen of article two, of chapter two hundred and twenty-one, of acts 1891, 1892, 1893, being paragraph twenty-five, of section nine hundred and sixty-five, Kentucky Statutes, be amended by striking out the following paragraph:

Madison county, at Richmond, on the third Monday in January, eighteen juridical days; on the first Monday in April, twenty-four juridical days; on the first Monday in September, eighteen juridical days; on the first Monday in December, twelve juridical days.

Clark county, at Winchester, on second Monday in February, eighteen juridical days; on the first Monday in May, twenty-four juridical days; on the fourth Monday in September, twenty-four juridical days.

Jessamine county, at Nicholasville, on the first Monday in March, twelve juridical days; on the first Monday in June, twelve juridical days; on the fourth Monday in October, twelve juridical days.

Powell county, at Stanton, on the third Monday in March, twelve juridical days; on the third Monday in June, twelve juridical days; on the second Monday in November, eighteen juridical days;" and inserting in lieu thereof, the following:

"Madison county, at Richmond, on the first Monday in February, twenty-four juridical days; on the first Monday in May, twenty-four jurical days; on the first Monday in October, twenty-four juridical days.

Jessamine county, at Nicholasville, on the first Monday in March, twelve juridical days; on the first Monday in June, twelve juridical days; on the first Monday in November, twelve juridical days.

Powell county, at Stanton, on the third Monday in March, twelve juridical days; on the third Monday in June, twelve juridical days; on the third Monday in November, twelve juridical days.

Clark county, at Winchester, on the first Monday in April, twenty-four juridical days; on the first Monday in September, eighteen juridical days; on the first Monday in December, eighteen juridical days.

So that said paragraph of said section of the chapter aforesaid, shall read as follows, viz.:

Madison county, at Richmond, on the first Monday in February, twenty-four juridical days; on the first Monday in May, twenty-four juridical days; on the first Monday in October twenty-four juridical days.

Jessamine county, at Nicholasville, on the first Monday in March, twelve juridical days; on the first Monday in June, twelve juridical days; on the first Monday in November, twelve juridical days.

Powell county, at Stanton, on the third Monday in March, twelve juridical days; on the third Monday in June, twelve juridical days; on the third Monday in November, twelve juridical days.

Clark county, at Winchester, on the first Monday in April, twenty-four juridical days; on the second Monday in September, eighteen juridical days; on the first Monday in December, eighteen juridical days.

Approved March 25, 1904.

CHAPTER 115.

AN ACT to amend so much of section 965 of the Kentucky Statutes, which relates to the time of holding courts in the twelfth circuit court district.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That section 965 of the Kentucky Statutes, in so far as it relates to the twelfth circuit court district be, and the same is hereby amended, by striking from said section all that part which relates to the time of holding courts in the twelfth circuit court district, and insert in lieu thereof the following: Terms of court.

Twelfth district—Anderson county, at Lawrenceburg, on the first Mondays in January, May and September, twelve juridical days each.

Henry county, at New Castle, on the third Mondays in January and May, twelve juridical days each, and on the third Monday in September, eighteen juridical days.

Shelby county, Shelbyville, first Monday in February eighteen juridical days; first Monday in June, twelve juridical days; second Monday in October, eighteen juridical days.

Trimble county, at Bedford, on the fourth Monday in February, twelve juridical days; and on the third Monday in June, six juridical days; second Monday in November, twelve juridical days.

Spencer county, at Taylorsville, on the second Monday in March, twelve juridical days; on the fourth Monday in June, six juridical days; and on the fourth Monday in November, twelve juridical days.

Oldham county, at Lagrange, on the fourth Monday

in March, twelve juridical days; on the first Monday in July, six juridical days; on the second Monday in December, twelve juridical days.

Approved March 25, 1904.

CHAPTER 116.

AN ACT to amend an act, entitled "An Act to assign the cities and towns of this Commonwealth to the classes to which they belong."

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The cities and towns of the Commonwealth are classified as follows, to-wit:

First Class—Louisville, Jefferson county.

Second Class—Lexington, Fayette county; Covington, Kenton county; Newport, Campbell county; Paducah, McCracken county.

Third Class—Owensboro, Daviess county; Henderson, Henderson county; Frankfort, Franklin county; Bowling Green, Warren county.

Fourth Class—Hopkinsville, Christian county; Shelbyville, Shelby county; Maysville, Mason county; Richmond, Madison county; Winchester, Clark county; Dayton, Campbell county; Paris, Bourbon county; Ashland, Boyd county; Catlettsburg, Boyd county; Danville, Boyle county; Mt. Sterling, Montgomery county; Middlesborough, Bell county, Georgetown, Scott county; Versailles, Woodford county; Harrodsburg, Mercer county; Bellevue, Campbell county; Cynthiana, Harrison county; Mayfield, Graves county; Somerset, Pulaski county; Lebanon, Marion county; Ludlow, Kenton county; Nicholasville, Jessamine county; Pineville, Bell county; Madisonville, Hopkins county, Princeton,

Caldwell county; Latonia, Kenton county; Fulton, Fulton county.

Fifth Class--Lancaster, Garrard county; Cadiz, Trigg county; Grand Rivers, Livingston county; Franklin, Simpson county; Greenville, Muhlenberg county; Elizabethtown, Hardin county; Louisa, Lawrence county; Russellville, Logan county; Columbus, Hickman county; Glasgow, Barren county; South Louisville, Jefferson county; West Covington, Kenton county; Earlington, Hopkins county; Carrollton, Carroll county; Hickman, Fulton county; Cloverport, Breckinridge, county; Bardstown, Nelson county; Augusta, Bracken county; Stanford, Lincoln county; Lawrenceburg, Anderson county; Williamsburg, Whitley county; Clinton, Hickman county; Midway, Woodford county; Flemingsburg, Fleming county; Barbourville, Knox county; Elkton, Todd county; Falmouth, Pendleton county; Central City, Muhlenberg county; Vanceburg, Lewis county; Morganfield, Union county; Carlisle, Nicholas county; Clay City, Powell county; Uniontown, Union county; Campbellsville, Taylor county; Hawesville, Hancock county; Milldale, Kenton county; Eminence, Henry county; Parkland, Jefferson county; Eddyville, Lyon county; Leitchfield, Grayson county; Owingsville, Bath county, Murray, Calloway county; Marion, Crittenden county; Providence, Webster county; Sebree, City, Webster county; Wickliffe Ballard county; Morehead, Rowan county; Bardwell, Carlisle county; Pikeville, Pike county; Sturgis, Union county; Dawson Springs, Hopkins county; Millersburg, Bourbon county; Corbin, Whitley and Knox counties; Calhoun, McLean county; Springfield, Washington county; Corydon, Henderson county; Hartford, Ohio county; Morton's Gap, Hopkins county.

Sixth Class—All other incorporated towns and

cities not named in this bill shall belong to the sixth class, (the original section, an act of September 30, 1892, was amended by acts of March 19, 1894, March 17, 1896, June 2, 1897, May 11, 1897, March 15, 1898, March 2, 1898, transferring cities from one class to another.)

§ 2. WHEREAS, It is necessary for the assigned cities and towns mentioned herein to make their tax levy for this year, under the charter of the towns to which they are assigned, an emergency is declared to exist, and this act shall take effect and be in full force and effect from and after its passage and approval.

Approved March 25, 1904.

CHAPTER 117.

AN ACT to change the time of holding court in the third judicial district.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Terms of court.

§ 1. That section 965 of the Kentucky Statutes fixing the time of holding court in the third judicial district, be amended to read as follows:

"Third District—Calloway county, at Murray, on second Monday in April and November, eighteen juridical days each; and the first Monday in August, twelve juridical days.

Trigg county, at Cadiz, on the fourth Monday in January, twenty-four juridical days; third Monday in May, twelve juridical days; first Monday in September, eighteen juridical days.

Christian county, at Hopkinsville, on the fourth Mondays in February and September, thirty-six juri-

dical days each; and first Monday in June, twenty-four juridical days.

Lyon county, at Eddyville, on the first Monday in May; third Monday in August, and first Monday in December, twelve juridical days each."

Approved March 25, 1904.

CHAPTER 118.

AN ACT appropriating twenty thousand dollars and appointing commissioners for the purpose of purchasing and erecting a statue in memory of William Goebel, Kentucky's martyred Governor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the sum of twenty thousand dollars or so much thereof as may be necessary is hereby appropriated for the purpose of purchasing and erecting upon the Capitol grounds or in the new Capitol building to be hereafter constructed at Frankfort, Kentucky, a suitable statue commemorative of Kentucky's devotion to the memory of her martyred Governor, William Goebel. Goebel monument.

§ 2. The Governor, Lieut. Governor, Attorney General, State Auditor and Treasurer are hereby appointed commissioners and are vested with full power to purchase, superintend and cause to be erected at such point upon said Capitol grounds or in said building as may be selected by them and for that purpose may make all necessary contracts and purchase all suitable material, and employ all necessary labor at a cost not exceeding twenty thousand dollars, the sum hereby appropriated. Said commissioners shall perform Commissioners.

their duties herein prescribed without compensation and neither of them shall be interested either directly or indirectly in any contract or material used in the erection of said statue.

$20,000 appropriated.

§ 3. The Auditor of Public Accounts shall draw his warrants upon orders signed by said three commissioners for sums expended in the construction of said statue not exceeding in all the sum of twenty thousand dollars hereby appropriated, which warrants shall be paid by the State Treasurer out of funds in the Treasury not otherwise appropriated.

Report.

§ 4. After the completion of said statue, said commissioner shall make report to the General Assembly of the Commonwealth of Kentucky under oath containing an itemized statement of the amounts expended hereunder.

§ 5. The Commonwealth of Kentucky shall not be liable for any act or contract of said commissioners or either of them.

Approved March 25, 1904.

CHAPTER 119.

AN ACT to amend and supplement article 5, chapter 89, of Kentucky Statutes, by providing certain regulations for cities of the fourth class that are two or more years in arrears in the payment of any indebtedness which was incurred by the issue of interest-bearing bonds, the validity of which has been adjudicated.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That when any city of the Fourth Class has heretofore incurred, or shall hereafter incur, an indebtedness by the issue of its interest-bearing bonds, and

when the validity of such indebtedness has been adjudicated in any court of record in this Commonwealth, or in any United States court, and such city is two or more years in arrears in the payment of any such indebtedness, or any part thereof, which is due and payable, such city shall be subject to all and singular the following regulations and provisions, until such time as it has fully paid and discharged the entire amount of any such indebtedness which is due and payable, whether the same be evidenced by over due bonds or coupons, judgments, settlement contracts or otherwise, to-wit:

Limits not to be changed.

"1. The limits of such city shall not be altered or changed, except to be enlarged according to law, and then to include all or the original area included in such city at the date of the issue of such bonds.

Salaries—when paid.

"2. The mayor and members of the board of council shall receive no salary or other compensation for their services as such officers, and the salaries or other compensation of all officers of such city, including the city collector, who shall be paid a salary in lieu and in place of any commission on any moneys he may collect, shall not exceed, in the aggregate, ten per centum of all moneys paid into the treasury for municipal purposes the preceeding year; *Provided, however,* That the salaries or other compensation of officers now in office shall not be reduced or affected by these provisions during their respective present terms of office.

Tax rate.

"3. The board of council shall not levy and collect for municipal purposes an annual ad valorem tax exceeding fifty cents on every hundred dollars of all property made taxable by law for State purposes.

Warrants—when issued.

"4. The board of council shall not issue, or cause to be issued, any warrant on a fund in which there are not sufficient moneys to pay such warrants, or shall not issue, or cause to be issued, any warrant on a fund raised

by levy and taxation for a special and designated purpose unless such warrant is in payment or satisfaction of the debt obligation or purpose for which such fund was created, or shall not borrow or transfer or cause to be borrowed or transferred any moneys from one fund raised by levy and taxation for a special and designated purpose to any other fund, and no moneys of any such fund raised by levy and taxation for such special and designated purpose shall be withdrawn or paid therefrom except upon presentation and surrender to the city treasurer of a warrant duly and legally drawn upon and payable out of such fund, which warrant shall state on its face the claim it is intended to pay and satisfy, and the members of the board of council, mayor or other city officers who authorize or permit the appropriation of any moneys from any fund in violation of the provisions of this act, shall be personally liable to any and all persons who suffer loss or damage thereby.

Warrants not accepted for taxes.

"5. No warrant or other evidence of municipal debt or liability shall be received or accepted in payment of any taxes, liquor or other license, or other obligations due such city.

Bond of treasurer.

"6. The city treasurer shall execute a bond to the city in a sum not less than ten thousand dollars, and such bond shall have as surety at least one trust or surety company, authorized to transact business in this State, and, in addition to the covenants now required in bonds of treasurers of cities of the Fourth Class, shall contain a covenant against the diversion or application of the moneys of any fund raised by levy and taxation for a special and designated purpose to any other purpose than that for which such fund was created; and such treasurer shall not have qualified for his office until he shall have given such bond, and failure to give the same

within thirty days after his election or appointment to office, as the case may be, shall be a forfeiture of his right to such office, and he shall be ineligible to re-election or re-appointment for two years. The premiums charged by any trust or surety company on such treasurers' bond shall be paid by the city out of its general fund, and the first receipts of the city for any fiscal year shall be applied to the payment of such premium."

§2. Wherever the provisions of this act are in conflict with any of the provisions of article 5, chapter 89, of the Kentucky Statutes, such statutes are hereby declared inoperative as to such cities of the Fourth Class coming within the purview of this act, otherwise this act is hereby declared to be supplemental to said article 5, of chapter 89, but only to such cities as are affected by this act, and as are referred to in section 1 thereof. *And it is further provided,* That this act shall continue to apply to any city coming within the purview thereof so long as such city shall not have paid in full its matured obligations in accordance with the terms of the original contracts creating such debts, or in accordance with such terms of settlement as may, subsequently, be agreed upon by such city with its creditors.

§ 3. This act shall take effect according to the provisions of the Constitution.

Approved March 25, 1904.

CHAPTER 120.

AN ACT for the benefit of the Agricultural and Mechanical College of Kentucky, and appropriating money to pay existing deficiencies, and to provide additional income therefor.

Annual appropriation of $15,000.

WHEREAS, Most of the State colleges and universities organized under the act of Congress of 1862, donating public lands for that purpose, receive in full the income from the invested proceeds of the sale of said lands.

AND WHEREAS, The same colleges and universities in like manner receive in full the annual appropriation made by Congress in 1890;

AND WHEREAS, The State College of Kentucky is compelled partly by congressional, and partly by State legislation, to share both of these sources of income with the colored population for the maintenance of the colored normal school, thereby reducing said income 14½ per cent. and amounting to an annual loss to this college of five thousand and sixty and $\frac{51}{100}$ dollars;

AND WHEREAS, On account of the rapid growth and expansion of the Agricultural and Mechanical College, and the consequent increased expenditure for laboratories, museums, equipment, current expenses and instruction, the inelastic income of the college has for several years fallen short of meeting expenses, and a deficit has now accumulated amounting to thirteen thousand four hundred and sixty-four and $\frac{19}{100}$ dollars; therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

That fifteen thousand dollars be, and the same is hereby appropriated for the current fiscal year and for each succeeding year,

in order to liquidate the existing indebtedness of the Agricultural and Mechanical College and to provide additional income for meeting the annual expenditures of the said Agricultural and Mechanical College of Kentucky, and the same is directed to be paid annually by the treasurer of the State to the treasurer of the Agricultural and Mechanical College, upon warrant issued by the Auditor of Public Accounts, who is hereby directed to draw and issue said warrant for the purpose aforesaid.

Became a law March 26, 1904, the Governor not having approved or disapproved same within the time prescribed by the Constitution.

CHAPTER 121.

AN ACT amending an act, entitled "An Act relating to fees," approved June 15, 1893, and being chapter 226 of the Acts of 1891, 1892 and 1893, being the same as chapter 47, Kentucky Statutes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That an act, entitled "An act relating to Fees," approved June 15, 1893, and being chapter 226 of the acts of 1891, 1892 and 1893 the same as chapter 47, Kentucky Statutes, be amended by repealing section 1 of said act, but said repeal shall not affect the fees of compensation allowed by the section repealed for services rendered before the said repeal goes into force and effect. Fee that may be charged.

Said section hereby repealed is in words and figures as follows:

FEES THAT MAY BE CHARGED BY

Hereafter the clerks of the court of appeals, circuit courts and county courts, so far as the same will apply,

shall receive the following fees for services performed by them:

For issuing each summons	$0 30
For each copy thereof	20
For entering and filing return thereof	15
For each order of attachment	30
For each copy thereof	20
For each order of injunction	30
Foreach copy thereof	20
For each subpoena duces tecum	40
For each subpoena for witnesses	30
But all of the witnesses living in the same county ordered to be summoned at the same time, shall be included in one subpoena and the fee therefor shall not be increased.	
For each warrant of arrest of a witness	30
For entering and filing officer's return thereof	15
For each order of arrest	30
For each copy thereof	20
For entering and filing officer's return thereof	15
For each order of delivery	30
For each copy thereof	20
For entering and filing officer's return thereof	15
For docketing an action, motion or proceeding at each term	10
For indorsing steps in each civil case at each term	10
For entering appearance of each party or parties to a cause to be charged but once	15
For filing a petition, or any other pleading	15
For filing an amended pleading	15
For each order of court, the entire entry to be but one order	30
For each copy thereof, when ordered	25

For each trial, including all the services incident thereto	75
For swearing a jury, if one be impaneled	25
For entering a judgment without jury	50
For each copy of a judgment, when ordered	30
For taxing costs of each party or parties at each term when judgment for cost is rendered or on final judgment, on a paper filed or to be filed with the action	30
For a copy of taxation of costs, if called for	20
For issuing an execution, including indorsements and return thereof, to be charged when issued.	60
For a copy of any execution and indorsements	50
For recording each award of arbitrators or judgment in equity, or for a copy of either, for each twenty words or fraction thereof	02
For entering attendance of witnesses and giving a certificate thereof, and swearing witnesses.	25
For each bond required to be taken by the clerk, including the administration of an oath to the sureties, and the certificate thereof	75
For each copy thereof when ordered	30
For filing each appeal	25
For each summons thereon	30
For each copy thereof	20
For filing return thereof	15
For entering satisfaction, or release or discharge of a judgment, in whole or in part, in court, or on an order-book to be paid by the party procuring the same, and when made by the clerk.	30
For administering an oath, and certificate thereof,	20
For filing an attachment granted by a justice of the peace or county judge	15
For copying a surveyor's report, for every twenty words or fraction thereof	02

For filing papers in any cause, for each party, exclusive of process pleadings, depositions, or papers referred to in the pleadings to be charged as costs once to each party	30
For filing a deposition, to be charged but once in each case, and all those contained in one envelope to be counted as one	15
For each writ of possession	1 00
For each official certificate	30
For issuing a writ of idiocy or lunacy	50
For recording each inquisition under same	50
For each copy of such inquisition when ordered ..	50
For copying a record, for every twenty words	02
For copying any other paper not specified, for every twenty words	02
For taking a recognizance in court	50
For taking each replevin bond	50
For every summons required by law	30
For entering and recording on the order book commissioner's reports, or any exhibit or paper in any cause, when ordered by the judgment or order of the court, for every twenty words	02
For recording special verdict, for every twenty words	02
For recording an execution, and its returns and indorsements when land is sold thereunder, to be charged to plaintiff, and included in the redemption price	50
For recording release or redemption of land sold under execution to be added to the price of redemption	25
For recording transcript from a justice of the peace or quarterly court, in order to obtain execution from the circuit clerk's office, to be paid by the plaintiff, and charged as costs in the execution,	30

For recording each bond required by law to be recorded in equity proceedings	50
For issuing each supersedeas	30
For each copy thereof	20
For each commission to take depositions	50
For copying courses and distances of any deed, for each tract when demanded	25
For recording plat laid down in the allotment of dower or division of land, for each tract thereof	25
For copying each report thereof, for each twenty words, or fraction thereof	02
And for each plat, for each tract represented on the plat, including the description thereof	25
For entering satisfaction of a mortgage or lien when entered on the margin of the record book,	25
For receiving the acknowledgment, recording and certifying each deed of release of a mortgage or lien,	75
For each order made by the clerk in vacation	30
For receiving the acknowledgment or proof of any deed, mortgage or agreement, power of attorney, marriage agreement, or other agreement, or written instrument required by law to be done, and certifying same	50
For recording powers of attorney, marriage agreements, and other agreements, allotments of dower, division of land, wills, inventories, sale bills, settlement of fiduciary accounts, and certificates thereof, for every twenty words, or fraction thereof	02
For each order in the county court	25
For each copy thereof when ordered	25
For the probate of a will and certificate, including all services relating thereto	50

For an order granting an administration appointing guardian, curator, or committee of an id iot or lunatic, or appraisers of estate, or any fiduciary	25
For taking a bond from any fiduciary	50
For certificate of administration, or copy of it	25
For copy of tavern rates	25
For marriage license, bond, certificate, and recording it	1 50
For any other license	1 00
For order binding out an apprentice	25
For copy of same when ordered	25
For writing the indentures, and recording same	1 00
For making record for the establishment of a town, recording the plan or plat thereof, and all other services incident	5 00
For recording survey of a city or town, or any part thereof, or any addition to, or the extension of the boundary of a town or city	3 00
For taking a bond from the owner of a ferry, or in any other case where no fee is fixed specially by law	50
For copy of any bond when ordered	50
For recording post notice of an estray, waif, or wreck, and advertising same	75
For every order concerning the establishment, changing, closing or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed, or discontinued, and by the applicant when it is not	25
For each order appointing surveyor of road	25
For each copy thereof	25

The two last named to be paid out of the county levy.

For each order in proceedings for private passways to be paid by applicant	25
For each copy of same, to be paid by applicant when ordered	25
For each report of list of surveyors of roads made and furnished to the grand jury, to be paid out of the county levy	2 00
For taking the acknowledgment or proof of a deed of real estate, certifying and recording the same, and recording his own certificate, provided the entire record thereof does not exceed twelve hundred words, one dollar and twenty-five cents, and for all over twelve hundred words, for every twenty words	02
For each additional certificate	25
For each additional tract embraced in such deed, except town lots	25
For copy of deed and certificate thereon	1 00
For recording the conveyance of personal or chattel property, taking the acknowledgment or proof thereof, and recording the orders and certificates, including the whole service	1 00
For each copy thereof	75
For recording a mortgage of real estate, certificates and all services connected with the same, provided the entire record thereof does not exceed twelve hundred words, one dollar and twenty-five cents, and all over twelve hundred words for every twenty words	02
For copy of same	1 00
For recording mortgage of personalty	1 00
For copy of same	75
For recording deeds of trust or assignments for the benefit of creditors	1 50
For copy of same when ordered	75

For taking bond required of the trustee or trustees in such cases, and including all services connected with it 1 0
For recording inventories required to be filed by the trustee for every twenty words 0
For each certificate of election of an officer, to be paid by the person receiving it 5
For administering an oath to a broker 2
For each bond not especially provided for 5
For services required to be rendered by the county clerk, under section one, article thirteen, of "An act relating to revenue," which became a law November eleventh, one thousand eight hundred and ninety-two, without the Governor's approval, two cents per line.
For each order and certificate allowing any claim against the county or State Treasury, where the claim exceeds five dollars, and to be paid by the claimant 30
Similar fees for similar services shall be allowed in all cases in the name of the Commonwealth when a fine is assessed and collected.
For issuing a warrant in bastardy case 1 00

§ 2. Be it further enacted that in lieu of the aforesaid section hereby repealed, it now be enacted as follows:

Hereafter, the clerks of the Court of Appeals, clerks of circuit courts, and clerks of county courts, so far as the same will apply, shall receive the following fees for services performed by them:

For issuing summons $0 30
For each copy thereof 20
For entering return thereon 15
For issuing order of attachment 30
For each copy thereof 20

For entering return thereon 15
For issuing order of injunction 30
For each copy thereof 20
For entering return thereon 15
For issuing subpoena 30

But all of the witnesses living in the same county ordered to be summoned at the same time shall be included in one subpoena, and the fee therefor shall not be increased.

For issuing attachment for a witness 30
For issuing order of arrest 30
For each copy thereof 20
For entering return thereon 15
For issuing order of delivery 30
For each copy thereof 20
For entering return thereon 15
For docketing an action, motion or proceeding... 10
For indorsing steps 10
For filing a petition or any other pleading 15
For entering or noting of record in order book each order or direction, of the court for an order filing any pleading or other paper, each motion, demurrer, disposition thereof or ruling of the court or any other step taken, each 25
For copy thereof 20
For attendance in court upon each trial of an action, to be charged to each party for each trial. 50
For swearing a jury 25
For entering a judgment (other than equity action) 50
For each copy thereof 25
For entering or recording a judgment in an equity action for every ten words 01
For taxation of costs of each party, to be charged to such party 30

For each copy of a taxation of costs of each party, if called for	25
For issuing an execution, with all endorsements thereon	60
For each copy of an execution with all endorsements thereon	50
For swearing, entering attendance and issuing certificate of attendance of witnesses, each witness	25
For each bond required to be taken or prepared by the clerk	75
For each copy of bond	50
For filing each transcript on appeal	15
For administering an oath and certificate thereof.	25
For filing each exhibit or other paper, not a pleading	15
For filing a deposition, to be charged but once in each case, and all those contained in one envelope to be counted as one	15
For issuing each writ of possession	1 00
For each official certificate	50
For copying a record for Court of Appeals, or other purpose, each ten words	01
For copying a pleading or other paper, for each ten words	01
For taking a recognizance of a party or witness..	25
For every summons issued, required by law	30
For each copy thereof	20
For recording any report of a commissioner, surveyor, assignee, trustee, receiver, administrator, executor, guardian or other official or person, each ten words	01
For recording an execution with endorsements, returns and all papers therewith, when real estate is sold, each ten words	01

For recording, entering or noting release of any lien, mortgage or redemption	25
For recording a bond, each bond	50
For issuing a supersedeas	30
For each copy thereof	20
For entering return thereon	15
For each commission to take deposition	50
For recording or copying a plat or map of land, each lot	25
For entering satisfaction, or release or discharge of a judgment in whole or in part, in court or on an order book to be paid by the party procuring the same, and when made by the clerk	30
For copying a surveyor's report, for every twenty words or fraction thereof	02
For issuing a writ of idiocy or lunacy	50
For recording each inquisition under same	50
For each copy of such inquisition when ordered	50
For copying courses and distances of any deed, for each tract when demanded	25
For recording plat laid down in the allotment of dower or division of land, for each tract thereof	25
For entering satisfaction of a mortgage or lien when entered on the margin of the record book	25
For receiving the acknowledgment, recording and certifying each deed of release of a mortgage or lien	75
For each order made by the clerk in vacation	30
For receiving the acknowledgment or proof of any deed, mortgage or agreement, power of attorney, marriage agreement, or other agreement or written instrument required by law to be done and certifying same	50

For recording power of attorney, marriage agreements, and other agreements, allotments of dower, division of land, wills, inventories, sale bills, settlement of fiduciary accounts, and certificates thereof, for every twenty words, or fraction thereof	02
For each order in the county court	25
For each copy thereof when ordered	25
For the probate of a will and certificate, including all services relating thereto	50
For an order granting an administration, appointing guardian, curator, or committee of an idiot or lunatic, or appraisers of estate, or any fiduciary	25
For taking a bond for any fiduciary	50
For certificate of administration or copy of it	25
For copy of tavern rates	25
For marriage license, bond, certificate and recording it	1 50
For any other license	1 00
For order binding out an apprentice	25
For copy of same when ordered	25
For writing the indentures and recording same	1 00
For making a record for the establishment of a town, recording the plan or plat thereof, and all other services incident	5 00
For recording survey of a city or town, or any part thereof, or any addition to, or the extension of the boundary of a town or city	3 00
For taking a bond from the owner of a ferry, or in any other case where no fee is fixed specially by law	50
For copy of any bond when ordered	50
For recording post notice or an estray, waif or wreck, and advertising same	75

For every order concerning the establishment, changing, closing or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed or discontinued, and by the applicant when it is not	25
For each order appointing surveyor of road	25
For each copy thereof	25
The last two names to be paid out of the county levy.	
For each order in proceedings for private passways to be paid by applicant	25
For each copy of same, to be paid by applicant when ordered	25
For each report of list of surveyors of roads made and furnished to the grand jury, to be paid out of the county levy	2 00
For taking the acknowledgment or proof of a deed of real estate, certifying and recording the same, and recording his own certificate, provided the entire record thereof does not exceed twelve hundred words, one dollar and twenty-five cents, and all over twelve hundred words, every twenty words	02
For each additional certificate	25
For each additional tract embraced in such deed, except town lots	25
For copy of deed and certificate thereon	1 00
For recording the conveyance of personal or chattel property, taking the acknowledgment or proof thereof, and recording the orders and certificates, including the whole service	1 00
For each copy thereof	75
For recording a mortgage of real estate, certificates, and all services connected with the same, provided the entire record thereof does not ex-	

ceed twelve hundred words, one dollar and twenty-five cents, and for all over twelve hundred words, for every twenty words 02

For copy of same 1 00

For recording mortgage of personalty 1 00

For copy of same 75

For recording deeds of trust, or assignments of the benefit of creditors 1 50

For copy of same when ordered 75

For taking bonds required of the trustee or trustees in such cases, and including all services connected with it 1 00

For recording inventories required to be filed by the trustees, for every twenty words 02

For each certificate of election of an officer, to be paid by the person receiving it 50

For administering an oath to a broker 25

For each bond not specially provided for 50

For services required to be rendered by the county clerk, under section one, article thirteen, of "An act relating to revenue," which became a law November eleventh, one thousand eight hundred and ninety-two, without the Governor's approval, two cents per line.

For each order and certificate allowing any claim against the county or State Treasurer, where the claim exceeds five dollars, and to be paid by the claimant 30

For indexing each name of party to an action, proceeding or execution to be charged once in each case 10

There shall be allowed to the successful party if he is represented by a licensed attorney and taxed as costs in all actions in which no jury is empaneled and where the amount in controversy exclusive of interest and

costs amounts to fifty dollars, the same attorney fee as allowed in quarterly courts.

Became a law March 26, 1904, the Governor not having approved or disapproved the same within the time allowed by the Constitution.

CHAPTER 122.

AN ACT to regulate the running of motor vehicles upon the public highways of this State, and fixing a penalty for the violation thereof.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That no person shall operate a motor vehicle on a public highway at a rate of speed greater than is reasonable and proper at the time and place having regard to the traffic and use of the highway and its condition, or so as to endanger the life or limb of any person, or in any event at a greater rate than 15 miles an hour, subject, however, to the other provisions of this section. Rate limited to 15 miles per hour.

§ 2. Upon approaching a crossing of intersecting public highways, or a bridge, or a sharp curve, or a steep descent, and also in traversing such crossing, bridge, curve or descent, a person operating a motor vehicle shall have it under control, and operate it at a rate of speed no greater than six miles an hour, and in no event greater than is reasonable and proper, having regard to the traffic then on such highway and the safety of the public. Rate limited to 6 miles an hour on approaching crossings, bridges, etc.

§ 3. Upon approaching a person walking in the roadway of a public highway, or a horse or other draft animals, being ridden or driven thereon, a person operating a motor vehicle shall give warning of its ap- Warnings.

proach by signaling with a horn, bell or other device not calculated to frighten such animal, and use every reasonable precaution to insure the safety of such person or animal, and, in the case of horses or other draft animals, to prevent frightening the same, and at once reduce the speed at which such vehicle is being operated and hold same under control, and if such horses or other draft animals appear frightened, to not more than one-half the speed permitted by section two, and bring same to a stop if apparently necessary for the safety of such person or animal, having due regard to safety of passengers in such motor vehicles.

When required to stop.

§ 4. A person operating a motor vehicle shall, at request or on signal by putting up the hand, from a person riding or driving a restive horse or horses, or other draft animals, bring such motor vehicle immediately to a stop if necessary, having due regard for safety of persons, vehicles and animals, and if traveling in the opposite direction, remain stationary so long as may be reasonable to allow such horse or animals to pass, and if traveling in the same direction, use reasonable caution in thereafter passing such horse or animal: *Provided,* That in case such horse or animal appears badly frightened or he is requested so to do, the person operating such motor vehicle shall, if apparently safer, cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure the safety of persons, vehicles and animals.

Duty in passing others.

§ 5. Whenever a person operating a motor vehicle shall meet on a public highway any other person riding or driving a horse or horses or other draft animals, or any other vehicle, the person so operating such motor vehicle shall reasonably turn the same to the right of

the center of such highway, so as to pass without interference.

Any such person so operating a motor vehicle shall, on overtaking any such horse, draft animal or other vehicle, pass on the left side thereof, and the rider or driver of such horse, draft animal or other vehicle shall, as soon as practicable, turn to the right so as to allow free passage on the left. Any such person operating a motor vehicle shall, at the intersection of public highways, keep to the right of the intersection of the centers of such highways when turning to the right and pass to the left of such intersections when turning to the left.

Signals and lights.

§ 6. Every motor vehicle, while in use on a public highway, shall be provided with good and efficient brakes and also with a suitable bell, horn or other signal, and be so constructed as to exhibit during the period necessary from or after sunset until not necessary before sunrise, a white light visible within a reasonable distance in the direction toward which vehicle is proceeding and red light in reverse direction, provided that in case of heavy fog, if necessary, such light shall be displayed in daytime before sunset and after sunrise.

Penalty.

§ 7. Whoever shall violate the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction, be fined not less than ten dollars nor more than one hundred dollars and in addition thereto shall be liable in a civil action to any person injured in his person or damaged as to his property by the violation of the provisions of this act, and a lien shall attach to the vehicle causing the injury or damage in favor of the person injured or damaged upon the filing of a suit for damages.

Does not apply to cities and parks.

§ 8. This act shall not apply to the operation or use of automobiles or other motor vehicles within in-

corporated cities or towns, or to their use in the parks or park ways of any such city or town, or connected with or controlled by such city or town. Motor vehicles, as used in this act, includes all vehicles propelled by gasoline or other explosive vapor, steam, electricity or other kindred power, but the provisions of this act do not apply to traction engines, road rollers, fire engines, nor to motor vehicles run upon rails or set tramways or tracks.

Became a law March 26, 1904, the Governor not having approved or disapproved the same within the time prescribed by the Constitution.

CHAPTER 123.

AN ACT to amend section 2, of an act amending sections 127 and 154, of an act, entitled "An Act for the government of cities of the first class," which said amendment became a law March 22, 1898.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Appointment, vacation and salary of court stenographer.

That section 2 of an act, entitled "An act to amend sections one hundred and twenty-seven and one hundred and fifty-four of an act entitled, 'An act for the government of cities of the first class,' approved July 1, 1893," be, and the same is, hereby amended as follows:

By striking out all of section 2 following the words "per annum," in the fourth line of said section, and inserting in lieu of the words so stricken out the words "such stenographer shall be allowed sixty days' vacation in each year, and during such vacation the compensation of the stenographer pro tem. shall not be deducted from the salary of the regular stenographer," so that said section 2, when so amended, shall read as follows:

§ 2. The judge of the court may appoint for a term

of not exceeding four years a stenographer, who shall be paid by salary of twelve hundred dollars per annum. Such stenographer shall be allowed sixty days' vacation in each year, and during such vacation the compensation of the stenographer pro tem. shall not be deducted from the salary of the regular stenographer.'

Became a law March 26, 1904, the Governor not having approved or disapproved the same within the time prescribed by the Constitution.

CHAPTER 124.

AN ACT to amend section 7 of an act, entitled "An Act creating and regulating the office of county treasurer," Session Acts, 1891-2-3, which became a law February 27, 1893.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section seven of an act entitled, "An act creating and regulating the office of county treasurer," Session Acts one thousand eight hundred and ninety-one, two and three, which became a law February twenty-seventh, one thousand eight hundred and ninety-three, and the amendment to said act, which was approved February twenty-seventh, one thousand eight hundred and ninety-four, and also being section nine hundred and thirty-four of article six of chapter thirty-four of the Kentucky Statutes, be, and the same is, amended by adding to said section the following words: "*Provided, however*, That in counties containing a population of one hundred and fifty thousand or more, the salary of the treasurer shall not exceed twenty-five hundred dollars per annum to be fixed by the fiscal

Salary of county treasurer.

court," so that said section, as amended, will read as follows:

The treasurer shall receive for his services, as compensation, a salary not to exceed one thousand dollars per annum, to be fixed by the fiscal court: *Provided, however*, That in counties containing a population of one hundred and fifty thousand or more, the salary of the treasurer shall not exceed twenty-five hundred dollars per annum, to be fixed by the fiscal court.

Became a law March 26, 1904, the Governor not having approved or disapproved the same within the time prescribed by the Constitution.

CHAPTER 125.

AN ACT to amend sections 4 and 6 of an act, entitled "An Act to authorize the appointment of official stenographic reporters in counties containing a population of seventy-five thousand or over," which became a law July 13, 1893.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Duties of Stenographer defined.

§ 1. That section four of an act entitled, "An act to authorize the appointment of official stenographic reporters in counties containing a population of seventy-five thousand or over," which became a law July thirteenth, one thousand eight hundred and ninety-three, and the amendments to said act, which were approved May twenty-one, one thousand eight hundred and ninety-seven, and February twenty-eight, one thousand nine hundred and two, respectively, and also being section four thousand six hundred and forty of the Kentucky Statutes, be and the same is hereby amended by inserting after the words, "whereupon it shall be the duty of said reporter to take full shorthand notes of such tes-

timony, and to make such transcript thereof as he may be directed to make by the judge of said court," the following words: "*Provided, however,* That in counties having a population of one hundred and fifty thousand or more, the reporter of the criminal bench of the circuit court shall take the proceedings in shorthand in all cases tried or called for trial in said court, embracing preliminary motions, rulings of court, examination of jurors, testimony and arguments of counsel," so that said section, as amended, shall read as follows:

"Upon the trial of any criminal proceedings in said court, if the Commonwealth's Attorney or the accused, through his attorney, shall request the services of said reporter, the presiding judge may, in his discretion, order a full report of the testimony and a transcript thereof, and a carbon copy of said transcript, which carbon copy shall remain in the office of the clerk of the court as a public record, whereupon it shall be the duty of said reporter to take full shorthand notes of such testimony and to make such transcript thereof as he may be directed to make by the judge of the court: *Provided, however,* That in counties having a population of one hundred and fifty thousand or more, the reporter of the criminal bench of the circuit court shall take the proceedings in shorthand in all cases tried or called for trial in said court, embracing preliminary motions, rulings of court, examination of jurors, testimony and arguments of counsel. Which transcript may be used in making up the bill of exceptions to the Court of Appeals."

That section six of said act, and also being section four thousand six hundred and forty-two of the Kentucky Statutes, be and the same is amended by inserting after the words, "twelve hundred dollars per annum," the following words: *Provided, however,* That in coun-

ties having a population of one hundred and fifty thousand or more, the reporter of the criminal bench of the circuit court shall receive a salary to be fixed by the presiding judge of said branch of said court, not exceeding, however, the sum of twenty-five hundred dollars per annum, and shall receive no other compensation from the county for such services," and further, by inserting after the words in said section, "that no part of the fees" the words "or salary," so that said section as amended will read as follows:

"The fees of said reporters appointed under the provisions of this act, when serving in criminal cases in any of said courts, shall be fixed by the presiding judge thereof, not, however, to exceed five dollars per day for taking stenographic notes, and fifteen cents per one hundred words for the transcript thereof, which fees shall be paid upon the order of the presiding judge of said court, by the county in which said circuit court is situated, if the same is ordered by the court for the use of the Commonwealth's Attorney. If the transcript of the notes of said reporter in any criminal case is ordered by the presiding judge upon the motion of the defendant, or his counsel, the defendant shall be required to pay for the same, if, in the opinion of the court, he is able to do so. If it shall appear that the defendant is not able to pay for such transcript, the court may direct the same to be paid for as heretofore provided, and the same may be recovered at any future time from the defendant: *Provided,* That the amount paid by the county in such cases shall not exceed twelve hundred dollars per annum: *Provided, however,* That in counties having a population of one hundred and fifty thousand or more, the reporter of the criminal branch of the circuit court shall receive a salary to be fixed by the presiding judge of said branch of said

court, not exceeding, however, the sum of twenty-five hundred dollars per annum, and shall receive no other compensation from the county for such services: And *Provided, further*, That no part of the fees or salary of said reporter shall be paid by the Commonwealth. The fees of said reporter, when serving in civil cases in any of said courts or divisions, shall be fixed by the presiding judge thereof, not, however, to exceed five dollars per day for taking stenographic reports, and fifteen cents per one hundred words for the transcript thereof, which shall be paid forthwith by the party or parties in whose behalf such report or transcript is ordered, and shall be taxed as a part of the costs of the suit or proceeding: *Provided, however,* That said reporter shall not be required to file any of said transcripts without payment therefor by the party or parties in whose behalf the same is ordered: *Provided, however, further,* That the presiding judge of said court or division may direct said reporter to file a transcript upon the motion of any party suing in *forma pauperis.*

Became a law March 26, 1904, the Governor not having approved or disapproved the same within the time prescribed by the Constition.

CHAPTER 126.

AN ACT to amend and re-enact section 1, of article 2, chapter 232, of the Acts of 1891, 1892, 1893, entitled "An Act relating to roads and passways, and approved June 23, 1893, and being section 4348 of the Kentucky Statutes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That section one of article two, chapter 232, of the Acts of 1891, 1892, 1893, entitled, "An act re- Amends section 4348 of Ky. Statutes.

lating to roads and passways," and approved June 23, 1893, and being section 4348 of the Kentucky Statutes, be, and the same is, hereby amended and re-enacted, so that said section shall read:

Private passways, tram roads, haul-roads over land of another. When and how same may be had.

"§ 1. Whenever it shall appear to a county court, that it is necessary for a person to have a private passway over the land of one or more persons to enable him to attend courts, elections, a meeting house, a mill, warehouse, ferry, a railroad depot, most convenient to his residence, or whenever it shall appear to a county court, that it is necessary for a person to have a private tram-road or haul-road over the land of one or more persons to enable him to reach a warehouse, steamboat landing, ferry, railroad switch or navigable stream, for the purpose of operating and marketing the products from a lead mine, iron works, salt works, coal mine, fire clay and other minerals, oil well, stone quarry, sand bank or merchantable forest timber, the court shall appoint commissioners, as in case of a road, who, being first sworn to discharge their duties faithfully and impartially, shall go upon the land of the person through which the passway, private tram-road or haul-road is proposed, whether arable or not, and shall report in writing to the court, whether or not a private passway, tram-road or haul-road is necessary for any of the purposes aforesaid; and, if favorable to the passway, private tram-road or haul-road, they shall, in their report, designate the exact route for the same by metes and bounds, course and distances, and the width thereof, which, in no case, shall exceed twenty feet, and they shall determine and assess what will be a just compensation to each owner and tenant, if any, for the land proposed to be taken for a passway, private tram-road or haul-road, in the same manner as upon application to open and establish a new road.

§ 2. Upon the filing of the report of the commissioners, the clerk of the county court shall issue process against the owners to show cause why the said report should not be confirmed, and shall make such orders as to non-residents and persons under disability as are required by the Civil Code of Practice in actions against them in the circuit court.

§ 3. At the first regular term of the county court, after the owners shall have been summoned the length of time prescribed by the Civil Code of Practice before an answer is required, it shall be the duty of the court to examine said report, and if it shall appear to be in conformity to this law, and to the extent that no exceptions have been filed thereto by either party, it shall confirm said report as against the owners not excepting.

§ 4. When exceptions shall be filed by either party, the court shall forthwith cause a jury to be empaneled to try the issues of fact made by the exceptions, and each juror shall be allowed one dollar per day for his services, to be taxed as cost. In assessing the damages, the jury shall be governed by the rule prescribed in section 836 of the Kentucky Statutes, and, upon the request of either party, may be sent by the court, in charge of the sheriff, to view the land. If sufficient cause be not shown for setting aside the verdict, the court shall render judgment in conformity thereto. Either party may appeal to the circuit court, by executing bond as required in other cases, within thirty days, and the appeal shall be tried *de novo*, upon the confirmation of the report of the commissioners by the county court, or the assessment of damages by said court, as herein provided.

§ 5. The appeal from the county court shall be taken by filing with the clerk of the court to which the appeal lies a statement of the parties to the appeal,

and a transcript of the orders of the county court, and thereupon the said clerk shall certify to the clerk of the county court that said appeal has been filed, and the clerk of the county court shall immediately transfer the original papers to the clerk of the court to which the appeal is pending; and if the owner, on his appeal, shall fail in the circuit court to increase the amount of damages awarded in the county court, he shall pay all the costs of the appeal; if the damages are increased in the circuit court, the other party shall pay all the costs of the appeal.

§ 6. *Provided*, That nothing in this act shall operate to give any person, firm or corporation exclusive use of said passage, but any other person, firm or corporation shall have the right to use the same upon paying proper compensation therefor. If no agreement can be made for such compensation, then the right to such use may be condemned as herein provided.

Became a law March 26, 1904, the Governor not having approved or disapproved same within the time prescribed by the Constitution.

CHAPTER 127.

AN ACT requiring the owners and keepers of livery barns or stables to keep a register, and for the protection of the same, their horses, buggies or other animals and vehicles for hire.

Be it enacted by the Genearl Assembly of the Commonwealth of Kentucky:

Register to show distance to be traveled, time taken and time used.

§ 1. That every person engaged in the business of hiring vehicles, horses, or other animals, shall keep a book in which he shall enter the name of the person hiring same, together with the time to be used and distance to be traveled and the day and time of day such

animal or vehicle is delivered to the person hiring same, and it shall be the duty of the person hiring, to give such facts when required. The said book when so kept may be used in evidence in any prosecution for a violation of the provisions of this act if the livery keeper at the time, issue a duplicate memorandum to the person hiring such animal or vehicle.

Penalty for false statement or violation of contract.

§ 2. If any person hiring an animal or vehicle shall wilfully or maliciously and with intent to defraud, make any false statement to the person from whom the same is hired in reference to the facts required to be stated in section one of this act or who shall wilfully or maliciously and with intent to defraud exceed the stated time or drive a farther distance than he contracted for, shall be deemed guilty of a misdemeanor and upon conviction be fined not less than three dollars, nor more than fifty dollars, or imprisoned in the county jail not more than thirty days, or both so fined and imprisoned in the discretion of the court or jury. *Provided,* No prosecution shall be instituted under the provisions of this act except by the person from whom such animal or vehicle is hired, or by some person in his employ at the time of such hiring.

Offer to pay for excessive use of vehicle, etc.; effect of.

§ 3. No prosecution shall be instituted under the provisions of this act if the person hiring or using the animal or vehicle shall pay or offer to pay a reasonable sum for the damages or excessive use of same above that contracted for. And in any prosecution instituted under this act, if it shall appear that the defendant paid or offered to pay a reasonable sum for the damages or excessive use of such animal or vehicle above that contracted for, or that the person from whom the same is hired failed to demand any additional compensation, then such prosecution shall be dismissed and the person instituting same shall pay the cost thereof.

§ 4. All acts or parts of acts inconsistent with this act are hereby repealed.

Became a law March 26, 1904, the Governor not having approved or disapproved the same within the time prescribed by the Constitution.

CHAPTER 128.

AN ACT for the benefit of R. F. Peak, of Shelbyville.

WHEREAS, On the —— day of January, 1899, R. F. Peak, of Shelby county, Kentucky, was employed by the Attorney-General to represent the Commonwealth of Kentucky, in the Court of Appeals of Kentucky, in the case of Chesapeake & Ohio Railroad Company v. The Commonwealth, pending in said court, on appeal from the Shelby Circuit Court, wherein the statute known as the "Separate Coach Statute," was being attacked as in conflict with the commerce clause of the Federal Constitution, in so far as same applied to interstate railroads; and,

WHEREAS, said Peak, without assistance, represented the Commonwealth in the court of appeals, by filing a brief, and making an oral argument therein, and, said action terminated in judgment in favor of the Commonwealth, and was taken by the said C. & O. Railway Company, on writ of error to the Supreme Court of the United States, and,

WHEREAS, said Peak was retained and represented the Commonwealth by employment in the trial of said action in said court, and same terminated in an affirmance of the judgment of the Appellate Court of Kentucky, and,

WHEREAS, the present governor claims that the amount of the fee to be charged for such services should

under the statute, have been agreed upon at the time of employment, but was not done, therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Governor authorized to allow fee for legal services.

§ 1. That the Governor of this Commonwealth be, and he is hereby authorized to allow a reasonable fee to said R. F. Peak, for his services as an attorney for the State in an action of the Chesapeake & Ohio Railway Company against the Commonwealth, in the Court of Appeals of Kentucky, and in the Supreme Court of the United States, and if the Governor and said Peak can not agree upon a reasonable allowance, then the matter shall be referred to, and the amount of the fee fixed by the Chief Justice of the Commonwealth of Kentucky, and the amount so fixed either by agreement between the Governor and said Peak, or by the Chief Justice, the Auditor of Public Accounts is authorized and directed to draw his warrant in favor of said R. F. Peak, for said amount on the Treasurer in payment therefor.

Became a law March 26, 1904, the Governor not having approved or disapproved the same within the time prescribed by the Constitution.

CHAPTER 129.

AN ACT amending and re-enacting certain parts of section 4224 of the Kentucky Statutes, Carroll's 1903 edition, providing for the repeal of that part of said section which imposes a tax on domestic and foreign manufacturers of tobacco.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Foreign and domestic manufacturers of cigars, cigarettes, and tobacco dealers' licenses.

That that part of section 4224, of subdivision four, article ten, chapter one hundred and eight, of the Kentucky Statutes, Carroll's 1903 edition, and beginning

with the word "that" on the fifth line of said section, as appears on page 1476, of the said Kentucky Statutes, and ending with the word "dollars" on the thirteenth line of said page, 1476, and beginning with the word "that" on line 19, page 1477, and ending with the word "Auditor" on line 29 of said page, 1477 of said statutes, be and the same is hereby amended by striking out that part of said section 4224, as follows, to-wit:

"§ 32. That all corporations, associations, co-partnerships, or other persons owning or operating a tobacco factory in this State whereby the natural leaf is converted by process of manufacture into a manufactured product, including cigars and cigarettes, shall pay a license tax therefor: On the manufactured product (except cigarettes) of each factory, $1 on the marketable value of each $1,000 of such manufactured products up to $100,000 of such products, and fifty cents on each $1,000 of the marketable value on all in excess of the first $100,000.

"That each foreign manufacturer, wholesale dealer, or jobber, of manufactured tobacco, cigarettes, doing business in this State, shall pay a license tax therefor of $5 on each $1,000 worth of cigarettes sold in this State, and a tax of $1.50 on each $1,000 worth of manufactured tobacco, other than cigarettes, sold in this State, and all such foreign manufacturers, dealers or jobbers, shall be liable to all penalties imposed by law for failure to pay such taxes, and all such taxes shall be paid at the end of each six months, beginning July 1,1902 and paid directly into the State Treasury in report to the auditor," and inserting in lieu thereof, the following:

§ 32. That all corporations, associations, co-partnerships, or other persons owning or operating a cigarette factory in this State, whereby the natural leaf is converted by process of manufacture into a manufactured

product, shall pay a license tax therefor of $2.50 on each $1,000 of marketable value of such cigarettes," so that said section as amended shall read as follows, namely:

"§ 32. That all corporations, associations, co-partnerships or other persons owning or operating a cigarette factory in this State, whereby the natural leaf is converted by process of manufacture into a manufactured product, shall pay a license tax therefor of $2.50 on each $1,000 of marketable value of such cigarettes.

Report to auditor, semi-annually.

"It shall be the duty of the president, secretary, cashier, manager or general officer or owner of each of such factories, at the end of six months, beginning with the first day of July, 1902, and ending the thirty-first day of December, 1902, and six months thereafter, to report to the Auditor of Public Accounts, on blanks to be furnished by him, amount of the output of such factory during said time, and the marketable value of its products, and pay into the State Treasury the tax thereon."

Penalties.

"Any corporation, firm, or association, or other person liable for the taxes imposed by this section failing or refusing to make report, and pay the tax as herein specified, shall be deemed guilty of a misdemeanor, and, upon conviction, fined not less than $100 nor more than $500 for each offense, to be recovered by indictment in the Franklin Circuit Court. The Auditor of Public Accounts shall, at all times, through revenue agents or State Inspector, have the right to investigate the books of any factory operated in this State for the purpose of ascertaining whether or not the proper report has been made as required by provisions of this section, and all foreign dealers refusing or failing to pay such license taxes shall be subject to attachment and garnishment in the name of the Commonwealth of Kentucky, without bond being required of the collecting officer.

"That all foreign corporations, associations, co-partnerships, firms or other persons engaged in the business or occupation of owning or operating slaughter houses, packing houses, or manufacturing establishments wherein live animals, such as beeves, hogs, sheep, chickens, turkeys, ducks or other animals or fowls or fish, is prepared or manufactured for food for man or beast, in whole or in part, and doing business in this State, or selling through mail orders to persons in this State, shall pay a license tax therefor of fifty cents on each $100 of the gross amount received, in cash or otherwise, on sales made in this State.

"It shall be the duty of each foreign dealer doing such business in this State to make and deliver to the Auditor of Public Accounts, on the thirty-first day of December, 1902, and at the end of each six months, or within twenty days thereafter, a statement, sworn to, of the amount of the gross sales of the six months ending, and pay into the treasury the taxes due thereon. Any dealer liable for such taxes, refusing or failing to make and deliver such report and pay the taxes as herein required, shall be deemed guilty of a misdemeanor, and, upon conviction, fined not less than $500 or more than $1,000 for each offense, to be recovered by indictment in the Franklin Circuit Court.

"To selling by retail cigarettes, or cigarette paper, ten dollars per annum.

"To each resident wholesale dealer or jobber of cigarettes, $100 per annum.

"To each oil depot in this State, wherein petroleum lubricating or other oils are stored in bulk or tanks, $10.

"To selling by retail petroleum, lubricating or other oils, for each wagon used in transporting or retailing such oils, $5."

Became a law March 26, 1904, the Governor not having approved or disapproved the same within the time prescribed by the Constitution.

CHAPTER 130.

AN ACT relating to assessment of property for taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. The assessor in each county shall commence the duties of his office on the first day of September, in each year; and all taxable estate shall be assessed and valued as of the first of September in the year listed; and the person owning or possessing the same on that day, shall list it with the assessor, or report it to the State Board of Valuation and Assessment, for assessment as of the first of September, in cases where said report is the mode of assessment. Assessor commences duties of office, etc.

§ 2. All acts and parts of acts in conflict herewith are hereby repealed.

Became a law March 26, 1904, the Governor not having approved or disapproved the same within the time prescribed by the Constitution.

CHAPTER 131.

AN ACT for the benefit of M. J. Middleton.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the Auditor of Public Accounts be, and he is hereby, directed to issue his warrant on the State Treasurer in favor of M. J. Middleton for $4.50 per day, from the beginning of the present session of this General Assembly until its close, for his services in keeping and caring for the back capitol, and his assistants who For benefit of M. J. Middleton.

have aided said M. J. Middleton in keeping and caring for the back capitol.

§ 2. There being no law allowing pay for such services, an emergency exists for the immediate taking effect of this act, and it shall become a law immediately upon its passage and approval by the Governor.

Became a law March 26, 1904, the Governor not having approved or disapproved the same within the time prescribed by the Constitution.

RESOLUTIONS.

No. 1.

RESOLUTION directing the joint committees on charitable institutions, A. & M. College, and Penitentiaries and House of Reform, to visit said institutions and investigate same and report on the condition of same, and to provide for payment of expenses of said committees.

Be it resolved by the House of Representatives, the Senate concurring therein:

1. That the joint committees of the two houses of the General Assembly of the Commonwealth of Kentucky on charitable institutions, A. & M. college and penitentiaries and house of reform, be directed to visit their respective institutions and investigate same, and make a detailed report of their condition, and recommend any change they may deem proper for their betterment. The Auditor of Public Accounts is directed to draw his warrant upon the treasurer for such sums of money as may be necessary to defray the actual expenses of said joint committees, including any clerical hire deemed necessary by the committee, which shall be done on certificate of the chairman of the joint committees, and nothing shall be allowed for the expenses of any persons other than members on the committees and one clerk, if same is deemed necessary by the committees.

2. An emergency existing therefor, which is apparent, this resolution shall take effect on approval of the Governor.

Approved February 8, 1904.

No. 2.

RESOLUTION affirming and carrying into effect certain resolutions of the Senate and House of Representatives, and appointments made thereunder.

WHEREAS, On a former day of this session of the Legislature by Senate resolution, properly adopted, John Payns was appointed as messenger to the President of Senate, Leming B. Corliss as a special messenger of the Senate, and William Golden as the bill clerk of the Senate. and,

WHEREAS, Buford Osborne, Henry Hensley and Willie Beauchamp and Paul Williams were by resolution regularly adopted, appointed as special messengers and bill clerk to the House and J. Ekro Rapier was appointed stenographer and assistant to clerk, and Geo. H. Peters was appointed clerk to the committees of House, and, Whereas the auditor requires the concurrent consent of the House and Senate to said appointments before issuing his warrants to said parties in payment for their services therefore,

Be it resolved by the Kentucky House of Representatives, the Senate concurring therein, that the above named parties be, and they are hereby appointed to the above severally named positions for this term of the Legislature, and they are to receive as pay for their services two dollars and fifty cents per day each, except J. Ekro Rapier, who shall receive three dollars per day; Geo. H. Peters shall receive four dollars per day, and the auditor will, when a certified copy of this resolution is presented to him, draw his warrant on the treasurer for the amounts due each of said parties and charge the aggregate amounts to the contingent expense fund of the Legislature of 1904.

Became operative February 9, 1904, the Governor not having approved or disapproved the same.

No. 3.

RESOLUTION directing the librarian to furnish each member of the House and Senate one hundred and fifty copies of the Governor's message, ready for mailing.

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

That the Librarian be, and she is, hereby directed to furnish each member of the House and Senate, one hundred and fifty copies of the Governor's message to the General Assembly of Kentucky, in pamphlet form, single wrappers, for mailing, in postpaid wrappers;

Also, have printed on the wrapper of each copy the name of each member, according to the quota of copies.

Approved February 8, 1904.

No. 4.

RESOLUTION for the benefit of the ministers of Frankfort.

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

1. That the sum of $350 is hereby appropriated out of any money in the treasury not otherwise appropriated, to the ministers of the gospel of Frankfort who have opened the sessions of the House and Senate with prayer during this session of the General Assembly, said sum to be paid by the auditor on the joint warrant of the chief clerk of the Senate and House of Representatives, who will distribute said sum to the ministers entitled to same.

Provided, That said sum of $350 shall be paid one-half to the clerk of the House and one-half to the clerk

of the Senate, to be distributed by them to the minister or ministers, entitled to same.

§ 2. WHEREAS, It is but just and fair that these services should be paid for promptly, and an emergency is declared to exist, and this resolution shall take effect from and after its adoption.

Approved March 17, 1904.

No. 5.

RESOLUTION for the benefit of Mrs. H. P. McDonald, widow of H. P. McDonald, late a member of the House of Representatives.

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

That the auditor of public accounts be, and is hereby authorized to draw his warrant upon the treasury, in favor of Mrs. H. P. McDonald, for the same of one hundred and sixty-nine dollars, for funeral expenses, and also the clerk of the House be, and he is hereby directed to certify, and the auditor is directed to draw his warrant upon the treasury, for the remainder of his per diem, of the late H. P. McDonald, for this session.

Approved March 21, 1904.

No. 6.

RESOLUTION providing for the purchase of official manuals for use of members of the General Assembly and for distribution to certain officials.

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

1. That the State Librarian is hereby authorized and directed to purchase, at not exceeding $1 per copy

four hundred copies of the book entitled "Official Manual," for use of the courts, State and county officials, and General Assembly of Kentucky, which contains the Constitution, indexed and annotated, the standing committees of both Houses, the Rules of the Senate and House of Representatives, the Joint Rules, the names and postoffice address of the members of the General Assembly, and the directory of the State and county officials, and chief officials of the United States, and several States and Territories, and other valuable information. The Librarian will furnish the members of the General Assembly and such officials thereof as may be designated by the presiding officers of the respective Houses a copy of each of the same and will furnish the State officials with copies thereof, and send a copy thereof to the clerk of the county court of each county in the State, to be kept in his office. The Librarian will furnish to the Librarian of each State and Territory in the Union a copy of said book in exchange for similar books from the said States and Territories.

2. It being necessary that the officials should have the books, an emergency is declared, and this resolution shall be in force from its approval by the Governor.

Approved March 21, 1904.

No. 7.

RESOLUTION for the benefit of Ethel Hubble, child of the Hon. D. R. Hubble, deceased.

WHEREAS, Representative elect, D. R. Hubble, of Pulaski county, died a few days before he would have taken his seat as a member of this General Assembly, for a second and succeeding term, and,

WHEREAS, It is the will of this House, the Senate concurring therein, that the per diem salary, together with the railroad expenses and stationery is due, and ought to be paid to Ethel Hubble, the child of said Hubble.

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

1. That the Auditor of Public Accounts be, and he is hereby directed to draw his warrant on the treasurer, by order of the clerk of the House, in favor of Ethel Hubble, the child of D. R. Hubble, the sum of money that would have been due her father at the end of the present session out of any money not otherwise appropriated.

Approved March 22, 1904.

No. 8.

RESOLUTION providing for payment of expenses in the contest case of S. R. Hollen against H. D. Gregory and John Feland against David S. Edwards.

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the Auditor of Public Accounts be authorized and directed to draw his warrant upon the treasurer for the following amounts in favor of the persons named herein.

To H. D. Gregory, for attorney's fees and expenses, $150.

To S. R. Hollen, for attorney's fees and expenses, $150.

To John Feland, for attorney's fees and expenses, $150, and to David S. Edwards for attorney's fees and expenses, $150.

§ 2. WHEREAS, The services have been rendered and expenses incurred, and same should be paid without unnecessary delay, an emergency is declared, and this resolution shall take effect from and after its passage and approval.

Became a law March 26, 1904, the Governor not having approved or disapproved the same within the time prescribed by the Constition.

No. 9.

RESOLUTION for the benefit of Lewis Smith and Robert Irvine.

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

1. That the sum of $1.00 per day each, be, and is hereby, allowed Lewis Smith and Robert Irvine, for services in carrying record books for the clerks of the Senate and House of Representatives, to and from the offices of said clerks, during the present session. Also to Robert Irvine the sum of $1.00 per day during the session for services in attending to the furnaces in heating the halls of the Senate and House of Representatives.

2. WHEREAS, Said Smith and Irvine need the wages due them for this labor, as it is earned for their support, an emergency exists and this resolution shall take effect from, and after its passage.

Became a law without approval of the Governor March 26, 1904.

No. 10.

RESOLUTION for the benefit of Porter Washington.

WHEREAS, Porter Washington, has been in constant attendance upon the session of the General Assembly,

supplying the members thereof with sulphur water and rendering such other services as he was called upon to do by the members and employes of the General Assembly, therefore,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

That there is hereby appropriated to the said Porter Washington, the sum of $1.00 for each day such service was rendered, payable out of the treasury from moneys not otherwise expended, upon the order of the chief clerks of the two Houses of the General Assembly.

WHEREAS, The services described in this resolution having been performed an emergency exists and is hereby declared, and this resolution shall take effect upon its passage and approval.

Became a law March 26, 1904, without the Governor's signature.

No. 11.

RESOLUTION for the benefit of Moses Butcher.

WHEREAS, Moses Butcher has, during the present session, faithfully and acceptably served the General Assembly of Kentucky, in keeping clean and comfortable, by daily fires, the rotunda of the Capitol building, and promptly and efficiently performed necessary services in cleaning and taking care of the closets therein, and in waiting on committees.

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

1. That he be, and is, allowed for said service the sum of $1.00 per day, during said session, and the auditor will draw his warrant on the treasurer therefor.

2. There being no provision for paying for said needed services, an emergency is hereby declared, and this resolution shall take effect upon its passage.

Became a law March 26, 1904, without the Governor's signature.

No. 12.

RESOLUTION inviting M. A. Hanna to visit and address the General Assembly during present session.

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

That, United States Senator Marcus A. Hanna, be, and he is hereby requested, and invited to visit the Legislature, and address said body during its present session.

Not signed by Governor—law not requiring same.

No. 13.

RESOLUTION relative to the improvement of the Ohio and Mississippi rivers.

WHEREAS, The Congress of the United States, appreciating the vast importance of our internal water ways, as a necessary factor in the achievement of our manifest; destiny the industrial empire of the world, have already taken the preliminary steps to wonderfully improve the Ohio and Mississippi rivers as commercial channels of the United States, and to construct an isthmian canal; and,

WHEREAS, Such legislation on the part of Congress has met with the unqualified approval of the citizens of the United States generally; and

WHEREAS, The inevitable result of such improvement of our internal water ways must be of the greatest importance and benefit to the State of Kentucky, in connection with the United States at large; therefore,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

That we most sincerely commend the wisdom of the said legislation by the Congress of the United States and urge upon Congress the imperative necessity for the completion of the improvements contemplated as soon as compatible with their nature and importance; and be it further resolved that copies of these resolutions shall be sent to the Senate and House of Representatives of the United States.

No. 14.

RESOLUTION of respect to the memory of Hon. H. P. McDonald, deceased, late a member of the House of Representatives, in this General Assembly.

WHEREAS, The Divine Architect in His wisdom, has removed from our midst to "That bourne from which no traveler returns," our friend and colleague, the Hon. Harry P. McDonald; therefore,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

That in the death of our lamented co-laborer, the General Assembly has lost one of its most noble, useful and patriotic members. The community at large a valuable, liberal minded, honest and worthy citizen. His neighbors a generous, true, affectionate and trusted friend. His old comrades in arms have lost him beneath

whose strong arm and courageous heart they sought refuge amidst the horrors of battle; they have lost him whose loving heart and indomitable energy procured for them as the last of his many noble deeds, a home to shelter them from the chilling blasts of winter and the pinching hand of want; his aged mother a dutiful, affectionate and noble son; his wife a noble, loving and devoted husband; his daughter, the idol of his heart, has lost a kind, indulgent and honored parent, leaving a wounded heart that time can not heal.

Resolved, That the heartfelt sympathy of the General Assembly is hereby tendered to his bereaved and sorrowing family:

Resolved, That a copy of these resolutions be spread at large upon the Journal of the Senate and House of Representatives, and that an engrossed copy of the same, with the great seal of the Commonwealth appended thereto, be presented to his family as an evidence of the high regard an esteem in which he was held by his colleagues in the General Assembly of the Commonwealth of Kentucky.

Not signed by Governor—law not requiring same.

No. 15.

A RESOLUTION requesting Kentucky's Representatives in Congress to secure adequate compensation for rural free delivery carriers.

WHEREAS, The R. F. D. mail service in the United States is growing in popularity from day to day, so much so that it has become a public necessity; and,

WHEREAS, The present salary is inadequate to maintain suitable outfits and support the mail carriers, and

WHEREAS, The commissioners on postoffices and post

roads have recommended to fix the minimum salary of $720 with the repeal of the law allowing carriers to handle express packages; therefore be it

Resolved, That it is the sense of the Legislature of Kentucky, that the salary of the R. F. D. carriers should be not less than $850, with the privilege of handling express packages as provided by the existing law.

And that our Senators be instructed, and our Representatives be requested to take the necessary steps to have said relief granted by the post office department, at Washington.

Not signed by Governor—law not requiring same.

No. 16.

A RESOLUTION requesting Congress to enact into law a bill introduced by Representative Frank A. Hopkins, extending the provisions of the pension laws to certain soldiers who served in the Union in Kentucky.

WHEREAS, A large number of the citizens of this State were organized as State Militia, for the defense of the Union in Kentucky, during the war of the Rebellion; and,

WHEREAS, The provisions of the existing pension laws do not extend to the members of the said militia; and,

WHEREAS, The Honorable Frank A. Hopkins, of the Tenth Congressional District, of Kentucky, has introduced a bill in the present Congress, extending the provisions of the Pension Act of June twenty-eighth, eighteen hundred and ninety, to the said militia of Kentucky,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

§ 1. That we heartily endorse the said bill and respectfully urge the Congress of the United States, to enact the said bill into law for the relief of the citizens of this State, who thus served the Union in Kentucky.

§ 2. That the Secretary of the State is hereby directed to furnish to the author of said bill, one hundred copies of this resolution.

Not signed by Governor—law not requiring same.

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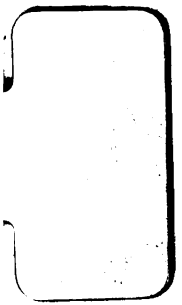
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